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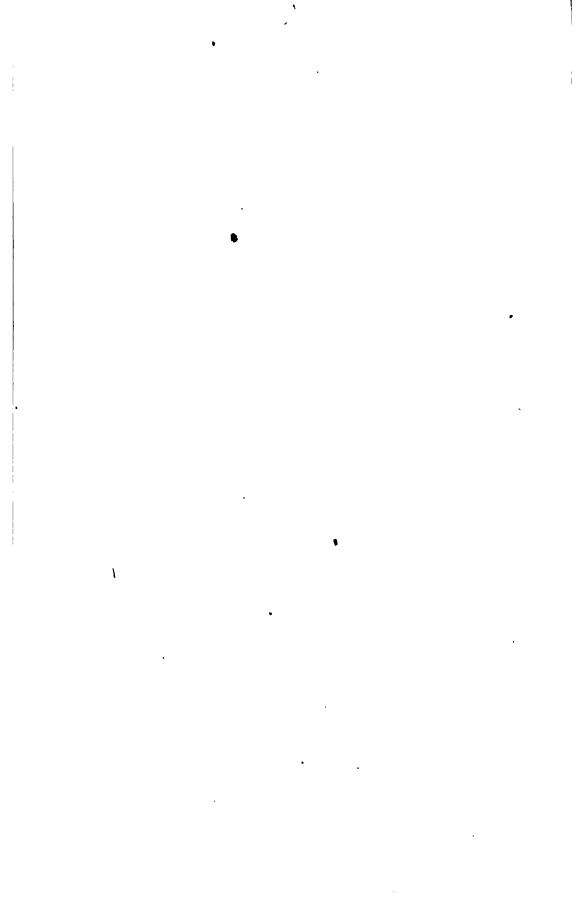
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# IMPERIAL STATUTES

AFFECTING THE

## PROVINCE OF ONTARIO;

AND CONSISTING CHIEFLY OF THOSE STATUTES WHICH RELATE TO THE CONSTITUTION OF THE PROVINCE

AND THE

POLITICAL RIGHTS OF ITS INHABITANTS,

AND SUCH OTHER OF THE IMPERIAL ACTS WHICH HAVE BEEN HERETOFORE PRINTED WITH THE STATUTES OF THE LATE PROVINCE OF CANADA AND OF THE DOMINION, AS AFFECT THIS PROVINCE.



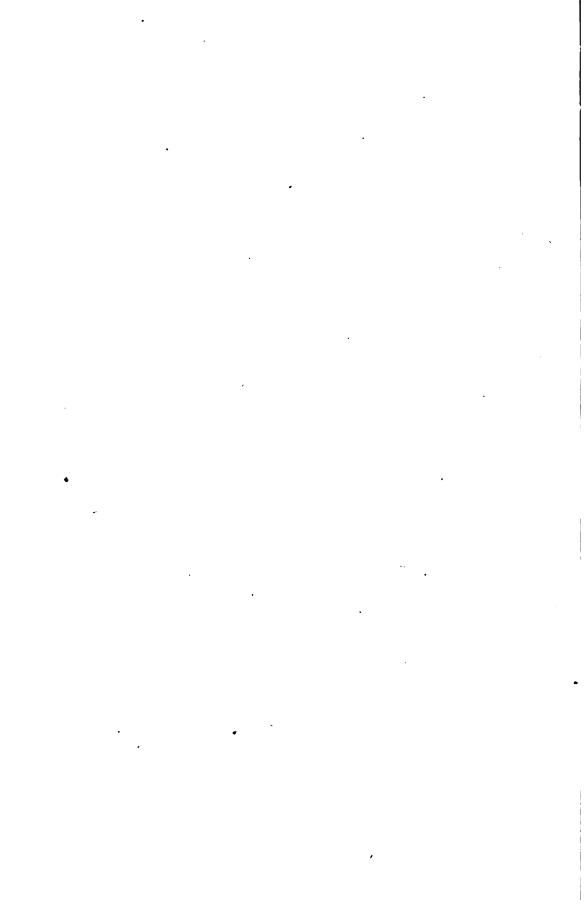


#### Toronto:

PRINTED BY JOHN NOTMAN,
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Anno Domini 1875.

L14767 JUL 11 1938 This collection of Imperial Statutes relating to Ontario has been made by G. H. Watson and G. L. B. Fraser, Esqs., Barristers-at-Law, under the direction of a Committee of the Commissioners for the Consolidation and Revision of the Statutes affecting the Province of Ontario. The index has been prepared by Mr. Fraser.



#### CHRONOLOGICAL

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#### 5 Geo. 2, c. 7.—1732.

An Act for the more easy recovery of debts in His Majesty's Plantations and Colonies in America.

HEREAS His Majesty's subjects trading to the British plantations in America lie under great difficulties, for want of more easy methods of proving, recovering, and levying of debts due to them, than are now used in some of the said plantations:

And whereas it will tend very much to the retrieving of the credit formerly given by the trading subjects of Great Britain to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniences were remedied.

May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same,

That from and after the twenty-ninth day of September After Sept. 29, 1782, plantation which shall be in the year of our Lord one thousand seven debts may be hundred and thirty-two, in any action or suit then deproved in Eng-pending, or thereafter to be brought in any court of law before a chief megistrate. or equity in any of the said plantations, for or relating to any debt or account, wherein any person residing in Great Britain shall be a party, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing by affidavit or affidavits in writing upon oath, or in case the person making such affidavit be one of the people called Quakers, then upon his or her solemn affirmation, made before any mayor or other chief magistrate of the city, borough or town corporate in Great Britain, where or near to which the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough or town corporate, or the seal of the office of such mayor, or other chief magistrate, which oath and solemn affirmation every such mayor and chief magistrate shall be and is hereby authorized and empowered to administer; and every affidavit or affirmation so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and

effect, as if the person or persons making the same upon oath or solemn affirmation as aforesaid, had appeared and sworn or affirmed the matters contained in such affidavit or affirmation viva voce in open court, or upon a commission issued for the examination of witnesses, or of any party in such action or suit respectively; Provided that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

Debts to his Majesty may be proved in the same manner. 2. And be it further enacted by the authority aforesaid, That in all suits now depending, or hereafter to be brought in any court of law or equity by or in behalf of His Majesty, His heirs and successors, in any of the said plantations, for or relating to any debt or account, that His Majesty, His heirs and successors, shall and may prove His and their debts and accounts, and examine His or their witness or witnesses by affidavit or affirmation in like manner as any subject or subjects is or are empowered or may do by this present Act.

Penalty on false oath or affirmation.

3. Provided always, and it is hereby further enacted, That if any person making such affidavit upon oath or solemn affirmation as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which, if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.

(These three secs. are amended by the 15th and 17th secs. of Imp. Act 5 and 6 Wm. 4, c. 62. See post p. 3.)

Lands, houses, negroes, etc., in the plantations liable to satisfy debts.

4. And be it further enacted by the authority aforesaid, That from and after the said twenty-ninth day of September one thousand seven hundred and thirty-two, the houses, lands, negroes, and other hereditaments and real estates, situate or being within any of the said plantations belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings and process in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal

personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of, for the satisfaction

(So much of this Act as relates to negroes is repealed by Imp. Act 37 Geo. 3, c. 19.)

### 5 & 6 Wm. 4, c. 62.—1835.

An Act to repeal an Act of the present Session of Parliament, intituled An Act for the more effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths.

(The following seem to be the only sections of this Act which now affect Ontario.)

15. And whereas an Act was passed in the fifth year of the Declaration reign of His late Majesty King George the Second, intituled, oaths and An Act for the more easy recovery of debts in His Majesty's affidavits replantations and colonies in America.

Colonies in America. plantations and colonies in America.

And whereas another Act was passed in the fifty-fourth year of the reign of His late Majesty King George the Third, intituled An Act for the more easy recovery of debts in His Majesty's colony of New South Wales;

And whereas it is expedient that in future a declaration shall be substituted in lieu of the affidavit on oath authorised and required by the said recited Acts;

Be it therefore enacted, That from and after the commencement of this Act, in any action or suit then depending, or thereafter to be brought or intended to be brought in any court of law or equity within any of the territories, plantations, colonies or dependencies abroad, being within any part of His Majesty's dominions, for or relating to any debt or account wherein any person residing in Great Britain and Ireland shall be a party or for or relating

to any lands, tenements or hereditaments or other property situate, lying, and being in the said places respectively, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing relating thereto by solemn declaration or declarations in writing in the form in the Schedule hereunto annexed, made before any Justice of the Peace, Notary Public or other officer now by law authorised to administer an oath, and certified and transmitted under the signature and seal of any such Justice, Notary Public, duly admitted and practising or other officer; which declaration and every declaration relative to such matter or things aforesaid in any foreign kingdom or state, or to the voyage of any ship or vessel, every such Justice of the Peace, Notary Public or other officer shall be and is hereby authorized and empowered to administer and receive; and every declaration so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect as if the person or persons making the same had appeared and sworn or affirmed the matters contained in such declaration viva voce in open court or upon a commission issued for the examination of witnesses or of any party in such action or suit respectively; Provided that in every such declaration there shall be expressed the addition of the party making such declaration and the particular place of his or her abode.

Debts on behalf of his Majesty to be proved by declaration.

17. And be it further enacted, That in all suits now depending or hereafter to be brought in any court of law or equity by or in behalf of His Majesty, His heirs and successors, in any of His said Majesty's territories, plantations, colonies, possessions or dependencies, for or relating to any debt or account, that His Majesty, His heirs and successors, shall and may prove his and their debts and accounts, and examine his and their witness or witnesses by declaration in like manner, as any subject and subjects is or are empowered or may do by this present Act.

#### Schedule referred to by the foregoing Act.

I, A. B., do solemnly and sincerely declare that and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the year of the reign of His present Majesty intituled An Act (here insert the title of this Act.)

14 GEO.

### 14 Geo. 3, c. 83—1774.

An Act for making more effectual provision for the government of the Province of Quebec in North America.

HEREAS his Majesty, by his royal proclamation bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provisions which have been made in respect to certain countries, territories and islands in America, ceded to his Majesty by the definite treaty of peace concluded at Paris on the tenth day of February, one thousand seven hundred and sixty-three: And whereas by the arrangements made by the said royal proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries: May it therefore please your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

1. That all the territories, islands, and countries in North Certain territories belonging to the Crown of Great Britain, bounded on ing to Great Britain annexable to the Crown of Glaboure along the britain annexable to the Crown of Glaboure along the britain annexable to the Crown of Glaboure along the britain annexable to the Crown of Glaboure along the britain annexable to the Crown of Glaboure along the britain annexable to the Crown of Glaboure along the Crown of Great Britain along the Crown of Glaboure along the Crown of the south by a line from the bay of Chaleurs, along the high ed to the lands which divide the rivers that empty themselves into the Quebec. River Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river Saint Lawrence; from thence up the eastern bank of the said river to the lake Ontario; thence through the lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio; but in case the

said bank of the said lake shall not be found to be so intersected. then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania; and thence, by a right line, to the said north-western angle of the said Province; and thence along the western boundary of the said Province, until it strike the river Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty-three.

2. Provided always, that nothing herein contained, relative Boundaries of any other colonies not to the boundary of the Province of Quebec, shall in any wise be affected. affect the boundaries of any other colony.

Not to make void other rights formerly granted.

3. Nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any right, title, or possession, derived under any grant, conveyance, or otherwise howsoever, of or to any lands within the said Province, or the Provinces thereto adjoining; but that the same shall remain and be in force, and have effect, as if this Act had never been made.

Former provi-May, 1775.

government of mation, in respect to the civil government of the said Province to be null and of Quebec, and the powers and authorities given to the Govgrants and commissions issued in consequence thereof, have been found, upon experience, to be inapplicable to the state and circumstances of the said Province, the inhabitants whereof amounted, at the conquest, to above sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property have been protected, governed and ordered, for a long series of years, from the first establishment of the said Province of Canada; be it therefore further enacted by the authority aforesaid. That the said proclamation, as far as the same relates to the said Province of Quebec, and the commission under the authority whereof the government of the said Province is at present administered, and all and every the ordinance and ordinances made by the Governor and Council of Quebec for the time being, relative to the civil government and administration of justice in the said Province, and all commissions to judges and other officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five.

5. And, for the more perfect security and ease of the minds Inhabitants of of the inhabitants of the said Province, it is hereby declared, profess the That His Majesty's subjects, professing the religion of the Roman Cathochurch of Rome of and in the said Province of Quebec, may subject to the have, hold, and enjoy, the free exercise of the religion of the macy as dechurch of Rome, subject to the King's supremacy, declared dechurch of Rome, subject to the King's supremacy, declared by an Act, made in the first year of the reign Elizabeth. of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong, to the Imperial Crown of this realm; and that the clergy of the said church may hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as shall profess the said religion.

6. Provided nevertheless, that it shall be lawful for His Provision Majesty, His heirs or successors, to make such provision out live be made for the support of the rest of the said accustomed dues and rights, for the of a Protestant encouragement of the Protestant religion, and for the main-the Province. tenance and support of a Protestant clergy within the said Province, as He or they shall, from time to time, think necessary and expedient.

(This does not appear to have been expressly repealed, but is not acted upon, and is perhaps inconsistent with later enactments.)

7. Provided always, that no person, professing the religion No person professing the of the church of Rome, and residing in the said Province, koman Cathoshall be obliged to take the oath required by the said statute obliged to take passed in the first year of the reign of Queen Elizabeth, or the oath later to the the characteristic of the control o any other oaths substituted by any other Act in the place to take the following outh. thereof; but that every such person who, by the said statute, is required to take the oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following oath before the Governor, or such other person in such court of record as His Majesty shall appoint, who are hereby authorized to administer the same; videlicet:

"I, A. B., do sincerely promise and swear, That I will be "faithful, and bear true allegiance to His Majesty King George, "and Him will defend to the utmost of my power, against all "traitorous conspiracies and attempts whatsoever, which "shall be made against His person, crown and dignity; and "I will do my utmost endeavor to disclose and make known "to His Majesty, His heirs and successors, all treasons, and "traitorous conspiracies, and attempts, which I shall know "to be against Him, or any of them; and all this I do swear "without any equivocation, mental evasion, or secret reservation,

"vation, and renouncing all pardons and dispensations from "any power or persons whomsoever to the contrary. "me God."

(See C. S. C., c. 12, s. 3, and Dom. Act 31 Vic., c. 36, s 3.)

And every such person, who shall neglect or refuse to take the said oath before mentioned, shall incur and be liable to the same penalties, forfeitures, disabilities and incapacities, as he would have incurred and been liable to for neglecting or refusing to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth.

His Majesty's Canadian subjects (religious ed) may hold

8. His Majesty's Canadian subjects, within the Province of Quebec, the religious orders and communities only excepted, orders except may also hold and enjoy their property and possessions, their property together with all customs and usages relative thereto, and all other their civil rights, in as large, ample, and beneficial a manner, as if the said proclamation, commissions, ordinances and other Acts and instruments had not been made, and as may consist with their allegiance to His Majesty, and subjection to the Crown and Parliament of Great Britain; and in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said Province, by His Majesty, His heirs and successors, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the time being, by and with the advice and consent of the Legislative Council of the same, to be appointed in manner hereinafter mentioned.

In civil matters resort to be had to laws of Canada.

> (But see Prov. Stat. U. C. 32, Geo. 3, c. 1, (Rev. Stat. Ont. c. 38), which repeals this sec. so far as it introduces the law of Canada into U.C. and provides that in U.C. in all matters relative to property and civil rights, resort shall be had to the laws of England.)

Exception as to lands in free and common socage,

9. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to any lands that have been granted by His Majesty, or shall hereafter be granted by His. Majesty, His heirs and successors, to be holden in free and common socage.

Owners of lands may alienate the same by will.

10. Provided also that it shall and may be lawful for every person that is owner of any lands, goods, or credits in the said Province, and that has a right to alienate the said lands, goods

goods or credits, in his or her life-time, by deed of sale, gift or otherwise, to devise or bequeath the same at his or her death, by his or her last will and testament, any law, usage or custom, heretofore or now prevailing in the Province, to the contrary hereof in any wise notwithstanding; such will being executed, either according to the laws of Canada, or according to the forms prescribed by the laws of England.

(But see now, the Provincial Statutes in force in this Province on this subject.)

11. And whereas the certainty and lenity of the criminal Criminal law of England to law of England, and the benefits and advantages resulting be continued in the Profrom the use of it, have been sensibly felt by the inhabitants, vince from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, That the same shall continue to be administered, and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial, and the punishments and forfeitures thereby inflicted, to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said Province before the year of our Lord one thousand seven hundred and sixtyfour, anything in this Act to the contrary thereof in any respect notwithstanding; subject nevertheless to such alterations and amendments as the Governor, Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of the Legislative Council of the said Province, hereafter to be appointed, shall, from time to time, cause to be made therein, in manner hereinafter directed.

(See, as to Ontario, the Act of U. C. 40 G. 3, c. 1, s. 1, C. S. U. C. c. 94), adopting the Criminal Law of England as it stood on 7th Sept., 1792, subject to any alteration to be made by the Provincial Legislature.)

Sections 12, 13, 14, 15 and 16, related to the constitution and powers of the Legislative Council for the Province, and were repealed by 31 G. 3, c. 31, s. 1.

17. Nothing herein contained shall extend, or be construed Nothing herein to extend, to prevent or hinder His Majesty, His Heirs and Suction prevent his Majesty approximately such construction. Their letters patent under the great seal of courts, etc., Great Britain, from erecting, constituting, and appointing, and their such courts of criminal, civil, and ecclesiastical jurisdiction the great seal. within and for the said Province of Quebec, and appointing, from time to time, the judges and officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the circumstances of the said Province.

All acts formerly made for regulating within the Province.

18. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, trade, etc., to remain in force within the said Province of Quebec, any Act or Acts of the Parliament of Great Britain heretofore made, for prohibiting, restraining, or regulating the trade or commerce of His Majesty's colonies and plantations in America; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said colonies and plantations, shall be, and are hereby declared to be in force within the said Province of Quebec, and every part thereof.

> (Its seems unlikely that there are any Acts to which this section can apply.)

#### 18 Geo. 3, c. 12—1778.

An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces, and Plantations in North America and the West Indies: and for repealing so much of an Act made in the seventh year of the reign of His present Majesty, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or relates thereto.

Presmble.

THEREAS taxation by the Parliament of Great Britain for the purpose of raising a revenue in His Majesty's Colonies, Provinces, and Plantations in North America, has been found by experience to occasion great uneasiness and disorders among His Majesty's faithful subjects, who may nevertheless be disposed to acknowledge the justice of contributing to the common defence of the Empire, provided such contribution should be raised under the authority of the General Court, or General Assembly of each respective Colony, Province, or Plantation:

And whereas, in order as well to remove the said uneasinesses, and to quiet the minds of His Majesty's subjects who may be disposed to return to their allegiance, as to restore the peace and welfare of all His Majesty's dominions, it is expedient to declare that the King and Parliament of Great Britain will not impose any duty, tax or assessment, for the purpose of raising a revenue in any of the Colonies, Provinces, or Plantations:

May

May it please Your Majesty that it may be declared and enacted, and it is hereby declared and enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

1. That from and after the passing of this Act, the King No tax to be and Parliament of Great Britain will not impose any duty, Coloniament of tax or assessment whatever, payable in any of His Majesty's Great Britain. Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it may be expedient Except duties to impose for the regulation of commerce; the net produce lation of trade to be applied of such duties to be always paid and applied to and for the for the use of the Colony. Province or Plantation in which the same use of the Colony, Province, or Plantation, in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts, or General Assemblies of such Colonies, Provinces, or Plantations are ordinarily paid and applied.

2. That from and after the passing of this Act, so much 7 Geo. 3, c, 46, repealed. of an Act made in the seventh year of His present Majesty's reign, intituled, An Act for granting certain duties in the British Colonics and Plantations in America; for allowing a drawback of the duties of Customs upon the exportation from this Kingdom of coffee and cocoa-nuts of the produce of the said Colonies or Plantations; for discontinuing the drawbacks payable on China earthenware exported to America; and for more effectually preventing the clandestine running of goods in the said Colonies and Plantations, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or has relation to the said duty, be, and the same is hereby repealed.

(This Act is continued by sections 46 and 47 of Imp. Act 31 Geo. 3, c. 31. and section 43 of Imp. Act 3 & 4 Vict. c. 35.)

### IMP. ACT, 31 GEO. 3, c. 31--1791.

An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's reign, intituled, An Act for making more effectual provision for the government of the Province of Quebec, in North America; and to make further provision for the government of the said Province.

THEREAS an Act was passed in the fourteenth year Preamble. of the reign of His present Majesty, intituled, An 14 G. 3, 0 83. Act for making more effectual provision for the government of

the Province of Quebec, in North America: and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas, it is expedient and necessary that further provision should now be made for the good government and prosperity thereof:

May it therefore please Your Most Excellent Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

(Section 1 repealed so much of Imp. Act 14 Geo. 3, c. 83, as related to the appointment and jurisdiction of a Council for the Province of Quebec.)

(Sections 2 to 32, both inclusive, related to the constitution of a Legislative Council and Legislative Assembly in Upper and Lower Canada respectively, and were repealed by the Union Act (3 & 4 Vict. c. 35, sec. 2.)—Section 33 merely continues laws then in force until otherwise ordered by the Legislature of either Province respectively.)

(Section 34 made the Governor &c., and the Executive Council, in either Province, a Provincial Court of Appeals. But other provision has been made in this Province under the power given to the Legislature by that section.)

(Section 35 continued in force Section 6 of Imp. Act 14 Geo. 3, c. 83, and provided for the application of tithes collected from lands and possessions occupied by Protestants to the support of a Protestant clergy. It also provided that this section might be repealed or varied by the Provincial Legislatures; and tithes were abolished in U. C. by 2 Geo. 4, c. 32.)

(Sections 36, 37, 38, 39, 40, 41, related to the reservation of lands for the support of a Protestant clergy, and the endowment of rectorics. The Imperial Act 3 & 4 Vict. c. 78, s. 11, repealed so much of this Act as related to any such reservation thereafter to be made: and the Prov. Act 14 & 15 Vict. c. 175, (Con. Stat. of Canada, c. 74,) repealed ss. 38, 39 and 40 of this Act relating to the establishment of rectories, saving past rights if found valid, and directing how the presentation to any rectory which is found to have been legally established, shall thereafter be The said Provincial Act was passed under the authority given by 8. 41 of the Act now under consideration.)

Provisions respecting the allotment of lands for the support of a Protestant

41. The several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said Provinces, and also clergy, &c., respecting the constituting, erecting, and endowing parsonnesy be varied ages or rectories within the said provinces, and also respectrespecting the constituting, erecting, and endowing parson-

ing the presentation of incumbents or ministers to the same, the Legislative and also respecting the manner in which such incumbents or Council and Assembly. ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, under the restriction hereinafter provided.

(Section 42, required that certain Bills respecting ecclesiasti-. cal rights and waste lands of the Crown should be reserved and laid before Parliament before being assented to, but see the Union Act (3 & 4 Vict. c. 35, s. 42), Imp. Act 17 & 18 Vict. c. 118, s. 6, and the B. N. A. Act, 1867, ss. 55, 56 and 90.)

43. All lands which shall be hereafter granted within the Lands in Upper Canada to said Province of Upper Canada, shall be granted in free and be granted in common socage, in like manner as lands are now holden in free and common socage, in that part of Great Britain and also in Lower Canada, shall be been directed to the common socage, in the part of Great Britain and also in Lower Canada, called England; and in every case where lands shall be here- if desired. after granted within the said Province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common socage, the same shall be so granted; but subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common socage, as may be established by any law or laws which may be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the Province.

(Section 44 provided that any person holding lands in U. C. by virtue of a certificate of occupation from the Governor and Council of the Province of Quebec upon surrendering the same should receive a fresh grant thereof to be holden in free and common socage, but it is improbable that any cases now remain to which this and the following section apply.)

(Section 45 provided that such surrender and grant should be made subject to any interest in such land which any one other than the person surrendering should have at the time of surrender, and should not affect such interest.)

(Secs. 46 and 47 referred to the Imp. Act 18 Geo. 3, c. 12, [See ante p. 10], and were to the same effect and in the same terms as Section 43 of the Union Act [3 & 4 Vict. c. 35.])

(Secs. 48, 49 and 50 were mere temporary provisions relating to the coming into force of the Act and matters preliminary thereto.)

### 1 & 2 Geo. 4, c. 66—1821.

Courts of Judicature in Up-per Canada to take cognizance of causes in Indian territories.

(The only sections of this Act affecting Ontario appear to be Sections 6 and 7.)

6. And be it further enacted, that from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of Upper Canada shall have the same civil jurisdiction, power and authority, as well in the cognizance of suits, as in the issuing of process mesne and final, and in all other respects whatsoever within the said Indian Territories and other parts of America, not within the limits of either of the Provinces of Lower or Upper Canada, or of any civil government of the United States, as the said Courts have or are invested with within the limits of the said Provinces of Lower or Upper Canada respectively; and that all and every contract, agreement, debt, liability and demand whatsoever, made, entered into, incurred or arising within the said Indian Territories and other parts of America, and all and every wrong and injury to the person or to property, real or personal, committed or done within the same shall be and be deemed to be of the same nature and cognizable by the same Courts, Magistrates or Justices of the Peace and be tried in the same manner and subject to the same consequences, in all respects, as if the same had been made, entered into, incurred, arisen, committed or done within the said Province or Upper Canada, anything in any Act or Acts of Parliament or grant or charter to the contrary notwithstanding: Provided always, that all such suits and actions relating to lands or to any claim in respect of land, not being within the Province of Upper Canada, shall be decided according to the Proceedings of laws of that part of the United Kingdom called England, and Courts issued shall not be subject to or affected by any local acts, statutes or laws of the Legislature of Upper Canada.

Actions relating to lands not within Up-per Canada decided according to laws of England.

as heretofore.

7. And be it further enacted, That all process, writs, orders, judgments, decrees and acts whatsoever, to be issued, made, delivered, given and done by or under the authority of the said Courts, or either of them, shall have the same force, authority and effect within the said Indian Territory and other parts of America, as aforesaid, as the same now have within the said Province of Upper Canada.

### 1 Wm. 4, c. 4—1830.

An Act to render valid acts done by the Governor of any of His Majesty's Plantations after the expiration of his Commission by the demise of His late Majesty, and to extend the period within which the Patents of Governors of Colonies shall on any future demise of the Crown become vacant, and to provide for the longer duration of the Patents of Governors after the demise of the Crown.

(Section 1 provided that all powers vested in Governors of Colonies, &c., by Patent or Commission of Geo. 4 should continue in force until new Patents should be issued and made known in such Colonies, and is effete.)

2. And be it further enacted, That no patent, commission, Extending the warrant or other authority for the exercise of any office or which patents, employment, civil or military, within any of His Majesty's acc. for office plantations or possessions abroad, determinable at the pleashall remain in sure of His Majesty, or of any of His Majesty's Heirs and future demise Successors shall, by reason of any future demise of the Crown. be vacated or become void until the expiration of eighteen calendar months next after any such demise of the Crown as aforesaid.

### 3 & 4 Vict., c. 35—1840.

An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.

(All the sections of this Act have been repealed or superseded by subsequent Imperial or Provincial legislation, or have become effete, except section 43.)

43. And whereas, by an Act passed in the eighteenth year colonial taxaof the reign of His late Majesty King George the Third, inti- tion, 18 G. 3, tuled, An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in North America and

the West Indies; and for repealing so much of an Act made in the seventh year of the reign of His present Majesty as imposes a Duty on Tea imported from Great Britain into any Colony or Plantation in America, or relating thereto, it was declared, that "the King and Parliament of Great Britain would not impose any duty, tax or assessment, whatever, payable in any of His Majesty's Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it might be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the Colony, Province or Plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such Colonies, Provinces or Plantations were ordinarily paid and applied:

And whereas it is necessary, for the general benefit of the Empire, that such power of regulation of Commerce should continue to be exercised by Her Majesty and the Parliament of the United Kingdom of *Great Britain* and *Ireland*, subject nevertheless to the conditions hereinbefore recited with respect to the application of any duties which may be imposed for that purpose:

Be it therefore enacted, that nothing in this Act contained shall prevent or affect the execution of any law which hath been or shall be made in the Parliament of the said United Kingdom for establishing regulations and prohibitions, or for the imposing, levying or collecting duties for the regulation of navigation, or for the regulation of the commerce between the Province of Canada and any other part of Her Majesty's dominions, or between the said Province of Canada, or any part thereof, and any foreign country or State, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to Her Majesty any power or authority, by and with the advice and consent of such Legislative Council and Assembly of the said Province of Canada, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof; Provided always, that the net produce of all duties which shall be so imposed shall at all times hereafter be applied to and for the use of the said Province of Canada, and (except as hereinafter provided) in such manner only as shall be directed by any law or laws which may be made by Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of such Province.

#### 6 & 7 Vic. c. 34—1843.

An Act for the Better Apprehension of Certain Offenders.

THEREAS it is expedient to make more effectual pro-Offenders in vision for the apprehension and trial of offenders escaping into against the laws who may be in other parts of Her Majesty's Kingdom may Dominions than those in which their offences were committed: be there apprehended.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same;

That from and after the passing of this Act, if any person charged with having committed any offence such as is hereinafter mentioned against the laws of any part of Her Majesty's Dominions, not being part of the United Kingdom of Great Britain and Ireland, and against whom a warrant shall have been issued for such offence by any person having lawful authority to issue the same within that part of Her Majesty's Dominions where such offence shall have been committed, shall be in any place within the said United Kingdom, it shall be lawful, in Great Britain, for one of Her Majesty's principal Secretaries of State, and in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, and also to all constables and other peace officers in that part of the United Kingdom where the said warrant shall be so endorsed, to execute the said warrant, by apprehending the person against whom such warrant is directed, and to convey the said person before a Justice of the Peace for the county or other jurisdiction in which the supposed offender shall be apprehended, or in Scotland either before such Justice of the Peace or before the Sheriff Depute or Substitute.

2. And to remedy the like failure of justice by the escape For apprehenof persons charged with having committed offences into those era escaping to parts of Her Majesty's Dominions which do not form part of the Colonies. the said United Kingdom;

Be it enacted, That from and after the passing of this Act, if any person charged with having committed any offence such as is hereinafter mentioned in any part of Her Majesty's Dominions, whether or not within the said United Kingdom, and against whom a warrant shall be issued by any person or persons having lawful authority

to issue the same, shall be in any other part of Her Majesty's Dominions not forming part of the said United Kingdom, it shall be lawful for the Chief Justice or any other Judge of Her Majesty's Superior Court of law within that other part of Her Majesty's Dominions where such person shall be, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and also to all persons to whom such warrant was originally directed, and also to all peace officers of the place where the warrant shall be so endorsed, to execute the same within the jurisdiction of the person by whom it shall be so endorsed, by apprehending the person against whom such warrant is directed, and to convey him before a Magistrate or other person having authority to examine and commit offenders for trial in that part of Her Majesty's Dominions.

Offender may be committed back to the

3. And be it enacted, That it shall be lawful for any perto gaol until son duly authorized to examine and commit offenders for trial before whom any such supposed offender shall be brought place where the offence was as aforesaid, upon such evidence of criminality as would justice offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence of criminality as would justice the offence was as aforesaid, upon such evidence was as aforesaid. tify his committal if the offence had been committed in that part of Her Majesty's Dominions, to commit such supposed offender to prison, there to remain until he can be sent back, in manner hereinafter mentioned, to that part of Her Majesty's Dominions in which he is charged with having committed such offence; and immediately upon the committal of such person, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of the said Information of warrant, shall be given, in Great Britain, to one of Her Majesty's principal Secretaries of State, and in Ireland, to the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions to the Governor or acting

committal to be given.

Copies of depositions may be given in evidence. Governor.

4. Provided always, and he it enacted, That in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Offenders apprehended to place where the offence vas commit-

5. And be it enacted, That it shall be lawful, in Great Britain, for any one of Her Majesty's principal Secretaries of State, and in Ireland, for the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions for the Governor or acting Governor, by warrant under his hand and seal to order any person who shall have been so apprehended and committed to gaol, to be delivered into the custody of some person or persons, to be named in the said warrant for the purpose of being conveyed into that part part of Her Majesty's Dominions in which he is charged with having committed the offence, and being delivered into the custody of the proper authorities there, to be dealt with in due course of law as if he had been there apprehended, and to order that the person so committed to gaol be so conveyed accordingly; and if the said person, after he shall have been so apprehended, shall escape out of any custody to which he shall have been committed as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions may be retaken upon an escape.

6. And be it enacted, That where any person who shall have If not sent within two been committed to gaol under this Act shall not be conveyed months after out of that part of Her Majesty's Dominions in which he shall committed may apply to have been so committed to gaol within two calendar months be discharged. after such committal, over and above the time actually required to convey the prisoner from the gaol to which he was committed by the readiest way out of that part of Her Majesty's Dominions, it shall be lawful for any of Her Majesty's Judges in that part of Her Majesty's Dominions in which such supposed offender shall be in custody, upon application made to him or them, by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to one of Her Majesty's principal Secretaries of State in Great Britain, or in Ireland to the Chief Secretary of the Lord Lieutenant of Ireland, or to the Governor or acting Governor in any other part of Her Majesty's Dominions, to order the person so committed to be discharged out of custody, unless sufficient cause be shown to such Judge or Judges why such discharge ought not to be ordered.

7. And be it enacted, That in case any person apprehended Persons apprehended if not under this Act shall not be indicted for the offence for which indicted withhe shall have been so apprehended within the period of six or if not concalendar months after his arrival in that part of Her Majes-victed, may be sent back. ty's Dominions in which he is charged to have committed the offence, or if upon his trial, he shall be acquitted. it shall be lawful, in Great Britain, for one of Her Majesty's Principal Secretaries of State, and in *Ireland*, for the Chief Secretary of the Lord Lieutenant of Ireland, and for the Governor or acting Governor in any other part of Her Majesty's Dominions, if he shall think fit, upon the request of the person so apprehended, to cause such person to be sent back, free of cost to such person, and with as little delay as possible, to that part of Her Majesty's Dominions in which he shall have been so apprehended.

8. And be it enacted, That the Court before which any per- Providing for son apprehended under this Act shall be prosecuted or tried removal of within the said United Kingdom may order, if it shall think offenders to

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fit, that the expenses of apprehending and removing the prisoner from any part of Her Majesty's Dominions not within the said United Kingdom to any place within the said United Kingdom, shall be repaid to the person defraying the same, by the Treasurer of the County or other Jurisdiction in England or Ireland, or by the Sheriff Depute or Substitute of the County in Scotland, in which the offence is charged to have been been committed, the amount of such expenses being previously ascertained by an account thereof, verified by production of proper vouchers before two Justices of the Peace of such County or other Jurisdiction, which last mentioned Justices shall examine into the correctness of the said account, and shall allow the same or such part thereof as shall to them appear just and reasonable, under their hands and seals; and every Treasurer or Sheriff Depute or Substitute, who shall pay the amount so ascertained, shall be allowed such payment in his accounts respecting the business of such County or other Jurisdiction.

Proof of the signature of the person issuing the original warrant.

9. Provided always, and be it enacted, that it shall not be lawful for any person to endorse his name on any such warrant, for the purpose of authorizing the apprehension of any person under this Act, until it shall have been proved to him, upon oath or by affidavit, that the seal or signature upon the same is the seal or signature of the person having lawful authority to issue such warrant whose seal or signature the same purports to be.

Warrant not to be endorsed except in cases of treason and felony, &c.

10. Provided also, and be it enacted, That it shall not be lawful for any person to endorse his name upon any such warrant for the purpose of authorizing the apprehension of any person under this Act, unless it shall appear upon the face of the said warrant that the offence which the person for whose apprehension the said warrant has been issued is charged to have committed is such that, if committed within that part of Her Majesty's Dominions where the warrant is so endorsed it would have amounted in law to a treason, or some felony, such as the Justices of the Peace in General or Quarter Sessions assembled have not authority to try in England under the provisions of an Act passed in the sixth year of the reign of Her Majesty, intituled "An Act to define the jurisdiction of Justices in General and Quarter Sessions of the Peace," or unless the depositions appear sufficient to warrant the committal of such person for trial.

(Imp. Act 16 & 17 Vict. c. 118, provided that this section should thereafter be read and construed as if the words from "such" in the tenth line to "Peace" in the fourteenth line inclusive, had been omitted therein.)

Section 11 provided that this Act might be amended, &c., by any Act of that session.)

6 & 7 Vict.

#### 6 & 7 Vict., c. 94—1843.

An Act to remove doubts as to the exercise of Power and Jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual.

THEREAS by treaty, capitulation, grant, usage, sufferance and other lawful means, Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's Dominions;

And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by, and dependent on the laws and customs of this Realm, and it is expedient that such doubts should be removed;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same;

1. That it is and shall be lawful for Her Majesty to hold, The power acceptance and enjoy any power or jurisdiction which Her Ma-Majesty in jesty now hath or may at any time hereafter have within any of Her domination of the dom country or place out of Her Majesty's Dominions, in the same nions shall be and as ample a manner as if Her Majesty had acquired such same terms as ther Majesty had acquired such Her Majesty's power or jurisdiction by the cession or conquest of territory. authority in the Crown

2. And be it enacted, That every act, matter and thing Acts done in which may at any time be done, in pursuance of any such such power to power or jurisdiction of Her Majesty, in any country or place effect as if out of Her Majesty's Dominions, shall in all courts ecclesias-done under local laws tical and temporal and elsewhere within Her Majesty's Dominions; be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

3. And be it enacted, That if in any suit or other proceed- courts authorings, whether civil or criminal, in any court ecclesiastical or evidence of temporal within Her Majesty's Dominions, any issue or ques-such power by tion of law or of fact shall arise for the due determination sectorary of whoreof it shall in the opinion of the judge or judges of such State. whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorized to transmit, under his or their hand and seal or hands and seals, to one

of Her Majesty's principal secretaries of state, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question aforesaid; and such secretary of state is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in any such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Power to send

4. And whereas it may in certain cases be expedient that persons charg-ed with crimes crimes and offences committed within such countries or places for trial to a as aforesaid should be enquired of tried determined and for trial to a British Colony, as aforesaid, should be enquired of, tried, determined and punished within Her Majesty's Dominions;

> Be it enacted, That it shall and may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offence, the cognizance whereof may at any time appertain to any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any British Colony which Her Majesty may, by any Order or Orders in Council, from time to time, appoint in that behalf; and upon the arrival of such person within such Colony it shall and may be lawful for the Supreme Court exercising criminal jurisdiction within the same, to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to enquire of, try and determine such crime or offence, and upon the conviction of the person so charged as aforesaid, to correct and punish him according to the laws in force in that behalf within such Colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such Supreme Court:

Before any such person shall be sent to any Colony for trial he may tender may tender any material evidence that he would be unable to pro-duce on trial and which shall be taken down and transmitted.

Provided always that before any such person shall be sent for trial to any such Colony as aforesaid, it shall be lawful for him to tender for examination to the judge, magistrate or other officer of Her Majesty, to whom the cognizance of the crime or offence with which he is charged may appertain within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said Colony, and the said judge, magistrate or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at trial before such judge, magistrate, or other officer, and

and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the Supreme Court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required to allow so much of the evidence so taken as aforesaid, as would have been admissible according to the law and practice of the said Supreme Court, had the said witness or witnesses been produced and examined at the trial before the said Court, to be read and received as legal evidence at such trial:

Provided also, that if it shall be made to appear at in case the such trial, that the laws by which the person charged with place in which any criminal act would have been tried had his trial taken committed place before a judge, magistrate, or other officer of Her Ma-vary from those of the jesty in the country or place in which such act may be alleged Colony, Courts to have been committed, vary from or are inconsistent with to them. the laws in force within such colony in respect either of the criminality of the Act charged or of the nature or degree of the alleged crime or offence, or of the punishments to be awarded for the same; such Supreme Court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as, but not further or otherwise, than the same relate to the criminalty of such act, or to the nature or degree of such crime or offence, or to the punishment thereof;

Provided also, that nothing herein contained shall be con-Nothing herein strued to alter or repeal any law, statute or usage by virtue of law respecting which any crime or offence committed out of Her Majesty's mitted out of Dominions might at the time of the passing of this Act be Dominions. inquired of, tried, determined and punished within Her Majesty's Dominions, or any part thereof, but the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

5. And whereas it may likewise, in certain cases, be expe-power to send dient that the sentences passed within such countries and execution or places as aforesaid at the trial of crimes and offences within to a British the same be carried into effect within Her Majesty's Dominions :

Be it enacted, That if any offender shall have been sentenced to suffer death or imprisonment, for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any British Colony

Colony which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed such offender may be carried into effect within the same; and the magistrates, gaolers, and other officers, to whom it may appertain to give effect to any sentence passed by the Supreme Court exercising criminal jurisdiction within such Colony, are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such Supreme Court.

(Section 6 provided for transportation of such offenders, but this punishment is now abolished by Imp. Acts 20 & 21 Vict., c. 3, & 32 Vict., c. 10, sec. 3.)

Limitation of

7. And be it enacted, That if any suit or action shall be brought in any court within Her Majesty's Dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's Dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's Dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an Act passed in the twenty-fourth year of the reign of King George the Second, intituled, An Act for rendering Justices of the Peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to the warrants; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in the execution of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict

24 G 2, c. 44.

verdict shall pass against the plaintiff or plaintiffs, or, if upon demurrer, judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

(Section 8 does not apply to this Province.)

(Section 9 provided that this Act might be altered, etc., by any Act passed in that Session.)

(28 & 29 Vict., c. 116, provides that, in the above Act, the term British Colony shall include, and be construed to include, any of Her Majesty's possessions out of the United Kingdom.)

# 10 & 11 Vict., c. 95—1847.

An Act to Amend the law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

HEREAS by an Act passed in the session of Parlia-5&&Viot. c.45.
ment holden in fifth and sixth years of Her present
Majesty, intituled, An Act to amend the Law of Copyright, it
is, amongst other things, enacted, that it shall not be lawful
for any person not being the proprietor of the copyright, or
some person authorized by him, to import into any part of the
United Kingdom, or into any other part of the British Domnions, for sale or hire, any printed book, first composed, or
written, or printed, or published, in any part of ithe United
Kingdom wherein there shall be copyright, and reprinted in
any country or place whatsoever out of the British Dominions.

And whereas, by an Act passed in the session of Parlia-sayviet. c.98. ment holden in the eight and ninth years of the reign of Her present Majesty, intituled, An Act to regulate the Trade of the British Possessions abroad books wherein the copyright is subsisting, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country are absolutely prohibited to be imported into the British Possessions abroad:

And whereas, by the said last recited Act it is enacted, that all laws, by-laws, usages, or customs in practice or endeavoured

voured or pretended to be in force or practice in any of the British Possessions in America, which are in any wise repugnant to the said Act or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said Possessions, are and shall be null and void to all intents and purposes whatsoever;

Her Majesty may suspend in certain cases the proin certain

Now be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, That in case the Legislature or proper Legislative authorities in any British against the sa-ing or protecting the rights of British authors in such Possesmission of pirasions, and shall pass an Act or make an Ordinario for the the other forms. Possession shall be disposed to make due provision for securto the Colonies purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to British authors reasonable protection within such Possession, it shall be lawful for Her Majesty, if she think fit so to do, to express Her Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or Ordinance continue in force within such Colony the prohibitions contained in the aforesaid Acts, and hereinbefore recited, and any prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed of published in the United Kingdom, and entitled to copyright therein, shall be suspended, so far as regards such Colony; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, anything in the said last recited Act or in any other Act to the contrary notwithstanding.

Orders in Council to be published in Gasette and aid before Parliament.

2. And be it enacted, that every such Order in Council shall, within one week after the issuing thereof, be published in the London Gazette and that a copy thereof, and of every such Colonial Act or Ordinance so approved as aforesaid by Her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such Order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

(Section 3 provided that this Act might be amended, &c., by any Act of that session.)

(See Imp. Act, 38 & 39 Vict., c. 53, post.)

# 12 & 13 Vict. c. 96.—1849.

An Act to provide for the prosecution and trial in Her Majesty's Colonies of offences committed within the jurisdiction of the Admiralty.

THEREAS by an Act passed in the eleventh year of the 10 & 11 W. 3, c.7. reign of King William the Third, intituled, An Act for the more effectual suppression of Piracy, it is enacted That all piracies, felonies and robberies committed on the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be examined, enquired of tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories to be appointed for that purpose by the King's commission in the manner therein directed, and according to the civil law, and the method and rules of the Admiralty:

And whereas, by an Act passed in the forty-sixth year of 46 G. 3, c. 54 the reign of King George the Third, intituled, An Act for the speedy trial of offences committed in distant parts upon the sea, it is enacted, That all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be enquired of, tried, heard, determined and adjudged, according to the common course of the laws of this Realm used for offences committed upon the land within this Realm and not otherwise, in any of fis Majesty's islands, plantations, colonies, dominions, forts or factories, under and by virtue of the King's commission or commissions under the Great Seal of Great Britain, to be directed to commissioners in the manner and with the powers and authorities therein provided:

And whereas, it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts and factories of persons charged with the commission of such offences upon the sea, or in any such haven, river, creek, or place as aforesaid:

Be it therefore enacted by the Queen's Most Excellent Ma-All persons jesty, by and with the advice and consent of the Lords Spiri-Colony with of tual and Temporal, and Commons, in this present Parliament ted on the sea assembled, and by the authority of the same, That if any to be dealt with in the person within any Colony shall be charged with the commis-same manner

Coleny.

as if the offen sion of any treason, piracy, felony, robbery, murder, concommitted on spiracy or other offence of what nature or kind soever, com-waters in the local jurisdic-mitted upon the sea or in any haven, river, creek, or place tion of the where the Admiral or Admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek or place shall be brought for trial to any Colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers and other persons in such Colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for, and auxiliary to, and consequent upon, the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such Colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same upon any waters situate within the limits of any such Colony, and within the limits of the local jurisdiction of the courts of criminal justice of such Colony.

Persons convicted of such

2. Provided always, and be it enacted. That if any person effences shall shall be convicted before any such court of any such offence, surer the like such person so convicted shall be subject and liable to, and shall in England, suffer all such and the second state of the second shall such and the second state of the se suffer all such and the same pains, penalties and forfeitures as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were enquired of, tried, heard, determined, and adjudged, in England, any law, statute or usage to the contrary notwithstanding.

Provision for the trial of murder and death only happens in the Colony or upon the sea.

3. And be it enacted, That where any person shall die in any Colony of any stroke, poisoning, or hurt, such person having manusaughter been feloniously stricken, poisoned, or hurt upon the sea or in any haven, river, creek or place where the Admiral or Admirals have power, authority, or jurisdiction, or at any place out of such Colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter or of being accessory before the fact to murder or after the fact to murder or manslaughter, may be dealt with, enquired of, tried, determined and punished in such Colony in the same manner in all respects as if such offence had been wholly committed in that Colony; and that if any person in any Colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned or otherwise hurt, shall have died of such stroke, poisoning or hurt, upon the sea, or in any haven, river, creek or place where

where the Admiral or Admirals have power, authority or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the Sea.

Section 4 relates to New South Wales and Van Dieman's Land only.

5. And be it enacted, That for the purposes of this Act the Interpretation word, "Colony," shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom and the Islands of Man, Guernsey, Jersey, Alderney, and Sark, and the Islands adjacent thereto respectively, and except also all such parts and places as are under the government of the East India Company; and the word, "Governor," shall mean the officer for the time being administering the government of any Colony.

(Section 6 provided that this Act might be amended, &c., by any Act of that session.)

(See Imperial Act 37 & 38 Vict. Cap. 27, by which are regulated the sentences to be imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.)

# 14 & 15 Vict., c. 99---1851.

An Act to amend the Law of Evidence.

(The following is the only section of this Act affecting Ontario.)

11. Every document which by any law now in force, or Documents hereafter to be in force, is or shall be admissible in evidence admissible of any particular in any court of justice in England, or of seal, &c. in Walse, or Indeed, without proof of the seal, or stemp or signs. Wales, or Ireland, without proof of the seal, or stamp, or signa-equally edmisture authenticating the same, or of the judicial or official colonies. character of the person appearing to have signed the same, shall be admitted in evidence to the same extent, and for the same purposes in any court of justice of any of the British Colonies, or before any person having in any of such Colonies by law, or by consent of parties, authority to hear, receive, and examine evidence, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

17 & 18 Vict.

# 17 & 18 Vict. c. 104—1854.

An Act to Amend and Consolidate the Acts relating to Merchant Shipping.

THEREAS it is expedient to amend and consolidate the Acts relating to Merchant Shipping;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

## Preliminary.

Short Title of Act.

1. This Act may be cited for all purposes as "The Merchant Shipping Act, 1854."

Interpretation

- 2. In the construction and for the purposes of this Act (if of certain Terms in this not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say,
  - "Her Majesty's Dominions" shall mean Her Majesty's Dominions strictly so called, and all Territories under the Government of the East India Company, and all other Territories, (if any), governed by any charter or licence from the Crown or Parliament of the United Kingdom:

"The United Kingdom" shall mean Great Britain and Ireland:

"British Possession" shall mean any Colony, Plantation, Island, Territory, or Settlement within Her Majesty's Dominions, and not within the "United Kingdom:"

"The Treasury" shall mean the Commissioners of Her Ma-

jesty's Treasury:

"The Admiralty" shall mean the Lord High Admiral or the Commissioners for executing his office:

"The Board of Trade" shall mean the Lords of the Committee of Privy Council appointed for the consideration of

matters relating to Trade and Foreign Plantations: "The Trinity House" shall mean the Master, Wardens, and Assistants of the Guild. Fraternity, or Brotherhood of the Most Glorious and Undivided Trinity and of St. Clement, in the Parish of Deptford Strond, in the County of Kent, commonly called the Corporation of the Trinity House of Deptford Strond: "The

"The Port of Dublin Corporation" shall mean the Corporation for preserving and improving the Port of Dublin:

"Consular Officer" shall include Consul General, Consul and Vice Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice Consul:

"Receiver" shall mean any person appointed in pursuance of

this Act receiver of wreck:

"Pilotage Authority" shall include all bodies and persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage:

"Pilot" shall mean any person not belonging to a ship who

has the conduct thereof:

"Qualified Pilot" shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong:

"Master" shall include every person (except a pilot) having

command or charge of any ship:

"Seaman" shall include every person (except masters, pilots, and apprentices duly indentured and registered,) employed or engaged in any capacity on board any ship:

"Salvor" shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, mean the person in command of such ship:

"Person" shall include body corporate:

"Ship" shall include every description of vessel used in navigation not propelled by oars:

- "Foreign-going Ship" shall include every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney and Man, and the Continent of Europe, between the river Elbe and Brest inclusive:
- "Home-trade Ship" shall include every ship employed in trading or going within the following limits; that is to say, the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney, and Man, and the Continent of Europe between the river Elbe and Brest inclusive:

"Home-trade Passenger Ship" shall mean every home-trade

ship employed in carrying passengers:

- "Lighthouses" shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and "buoys and beacons" shall include all other marks and signs of the sea:
- "Wreck" shall includge jetsam, flotsam, bagan, and derelict found in or on the shores of the sea or any tidal water.
- 3. This Act shall come into operation on the first day of Commence ment of Act. May one thousand eight hundred and fifty-five.

Exemption of Her Majesty's

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to Her Majesty.

Division of

5. This Act shall be divided into Eleven Parts:—

The First Part relating to The Board of Trade; its general Functions:

The Second Part to British Ships; their Ownership, Measurement, and Registry:

The Third Part to Masters and Seamen:

The Fourth Part to Safety and Prevention of Accidents:

The Fifth Part to Pilotage:

The Sixth Part to Lighthouses:

The Seventh Part to the Mercantile Marine Fund:

The Eighth Part to Wrecks, Casualties, and Salvage:

The Ninth Part to Liability of Shipowners:

The Tenth Part to legal Procedure:

The Eleventh Part to Miscellaneous Matters.

### PART I.

#### THE BOARD OF TRADE: ITS GENERAL FUNCTIONS.

Board of Trade chant Shipping.

6. The board of trade shall be the department to underto be Depart.

The board of trade shall be the department to underment to super-take the general superintendence of matters relating to merintend Merchant ships and seamen, and shall be authorized to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being, other than such Acts as relate to the revenue.

Certificates and Documents pur-porting to be saled or signed in a given manner to be received in evidence.

7. All documents whatever purporting to be issued or written by or under the direction of the board of trade, and purporting either to be sealed with the seal of such board, or to be signed by one of the secretaries or assistant secretaries to such board, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said board, without further proof, unless the contrary be shown; and all documents purporting to be certificates issued by the board of trade in pursuance of this Act, and to be sealed with the seal of such board, or to be signed by one of the officers of the marine department of such board, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary be shown.

Board of Trade to issue Forms of Instruments.

8. The board of trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite; and shall, before finally issuing or altering any such form, give such public notice

thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom houses and shipping offices of the United Kingdom free of charge, or at such moderate prices as it may from time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form issued by the board of trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

9. All instruments used in carrying into effect the second Certain Forms part of this Act, if not already exempted from stamp duty, ments to be and all instruments which by the third, fourth, sixth or exempt from Duty. seventh parts of this Act are required to be made in forms sanctioned by the board of trade, if made in such forms, and all instruments used by or under the direction of the board of trade in carrying such parts of this Act into effect, shall be exempt from stamp duty.

16. Every person who forges, assists in forging, or pro-Penalties for cures to be forged, such seal or other distinguishing mark as and traudulent aforesaid, or who fraudulently alters, assists in fraudulently alteration of altering, or procures to be fraudulently altered, any form issued not using by the board of trade, with the view of evading any of the by Board of by Board of provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanor; and every person, who, in any case in which a form sanctioned by the board of trade is, by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells or uses any document purporting to be a form so sanctioned knowing the same not to be so sanctioned for the time being or not to have been prepared and issued by the board of trade, shall for each such offence incur a penalty not exceeding ten pounds.

11. Subject to the provisions hereinafter contained all fees application of and payments, (other than fines), coming to the hands of the Fines patito board of trade under the third and fourth parts of this Act, Board of Trade. shall be carried to the account of the mercantile marine fund, hereinafter mentioned, and shall be dealt with as hereinafter prescribed in that behalf; and all fines coming to the hands of the board of trade under this Act shall be paid into the receipt

ceipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom.

Returns to Board of Trade. 12. All consular officers, and all officers of customs abroad and all local marine boards and shipping masters, shall make and send to the board of trade such returns and reports on any matter relating to *British* merchant shipping or seamen as such board requires; and all shipping masters shall whenever required by the board of trade, produce to such board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them.

Officers of Board of Trade, Naval Officers, Consuls, the Begistrar General of Seamen, officers of Customs and Shipping Masters, may inspect documents and muster Crews.

- 13. Every officer of the board of trade, and every commissioned officer of any of Her Majesty's ships on full pay, and every British consular officer, and the registrar general of seamen and his assistant, and every chief officer of customs in any place in Her Majesty's Dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act or the laws for the time being relating to merchant seamen and to navigation are not complied with, exercise the following powers; (that is to say,)
- He may require the owner, master, or any of the crew of any British ship to produce any official log books or other documents relating to such crew or any member thereof in their respective possession or control:
- He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books, or documents, or any part thereof:

He may muster the crew of any such ship:

He may summon the master to appear and give any explanation concerning such ship or her crew or the said official log books or documents:

And if upon requisition duly made by any person so authorized in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such muster of a crew as aforesaid, or refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorized to demand any such explanation, he shall for each such offence incur a penalty not exceeding twenty pounds.

Board of Trade May appoint 14. The board of trade may from time to time, whenever inspectors. It seems expedient to them so to do, appoint any person as an inspector,

inspector, to report to them upon the following matters; (that is to say,)

- (1.) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused:
- (2.) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with:
- (3.) Whether the hull and machinery of any steamship are sufficient and in good condition.
- 15. Every such inspector as aforesaid shall have the follow- powers of Inspectors. ing powers; (that is to say,)
- (1.) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage:
- (2.) He may enter and inspect any premises, the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make:
- (3.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make:
- (4.) He may require and enforce the production of all books, papers or documents which he considers important for such purpose:
- (5.) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination:

And every witness so summoned as aforesaid shall be allowed Witnesses to be allowed such expenses as would be allowed to any witness attending expenses; on subpœna to give evidence before any court of record, or if in Scotland, to any witness attending on citation the court of justiciary; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of Her Majesty's Court of Queen's Bench in England or Ireland, or to the Queen's and Lord Treasurer's Remembrancer in Scotland, who, on a request made to him

Penalty for refusing to give evidence.

for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed and after having had a tender made to him of the expenses, (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for obstructing Inspectors in the execution or their duty. 16. Every person who wilfully impedes any such inspector appointed by the board of trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

### PART IL

BRITISH SHIPS: THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

# Application.

Application of Part II. of Act.

The second part of this Act shall apply to the whole of Her Majesty's Dominions.

Description and Ownership of British Ships.

Description and ownership of British Ships. 18 No ship shall be deemed to be a British Ship unless she belongs wholly to owners of the following description; (that is to say,)

# (1.) Natural-born British subjects:

Provided that no natural-born subject who has taken the oath of allegiance to any Foreign Sovereign or State shall be entitled to be such owner as aforesaid, unless he has subsequently to taking such last-mentioned oath taken the oath of allegiance to Her Majesty, and is and continues to be during the whole period of his so being an owner resident in some place within Her Majesty's Dominions, or if not so resident, member of a British factory, or partner in a house actually carrying on business

business in the United Kingdom or in some other place within Her Majesty's Dominions:

(2.) Persons made denizens by letters of denization, or naturalized by or pursuant to any Act of the Imperial Legislature, or by or pursuant to any Act or Ordinance of the proper legislative authority in any British Possession :

Provided that such persons are and continue to be. during the whole period of their so being owners, resident in some place within Her Majesty's Dominions, or if not so resident, members of a British factory, or partners in a house actually carrying on business in the United Kingdom or in some other place within Her Majesty's Dominions, and have taken the oath of allegiance to Her Majesty subsequently to the period of their being so made denizens or naturalized:

(3.) Bodies corporate established under, subject to the laws of, and having their principal place of business in the United Kingdom or some British possession.

(But see Dom. Stat. 36 Vict., c. 128, s. 8.)

19. Every British ship must be registered in manner here- British Ships inafter mentioned, except,

with certain exceptions must be registered.

- (1.) Ships duly registered before this Act comes into operation:
- (2.) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British Possession within which the managing owners of such ships are resident.
- (3.) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the Gulf of St. Lawrence, or on such portion of the coasts of Canada, Nova Scotia, or New Brunswick as lie bordering on such gulf:

And no ship hereby required to be registered shall, unless registered, be recognized as a British ship; and no officer of customs shall grant a clearance or transire to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a British ship, unless the master of such ship upon being required so to do, produces to him such certificate of Registry as is hereinafter mentioned; and if

such ship attempts to proceed to sea as a British ship without a clearance or transire, such officer may detain such ship until such certificate is produced to him.

(But see sections 7 & 8 of Dom. Stat. 36 Vict., c. 128, as to ships exempted from registration in Canada.)

## Measurement of Tonnage.

Tonnage Deck; Feet;, Decimals.

26. Throughout the following rules the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

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For ships to be registered and other ships of which the hold is clear. 21. The tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall, previously to her being registered, be ascertained by the following rule, hereinafter called Rule I.; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

Lengths.

(1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be, (average thickness,) deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

### TABLE.

- Class 1. Ships of which the tonnage deck is according to the above measurement 50 long or under, into 4 equal parts.
  - " 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts:
  - " 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts:

Class

- Class 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts:
  - " 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts:
- (2.) Then the hold being first sufficiently cleared to admit of Transverse the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length as follows:

Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake after deducting the average thickness of the ceiling which is between the bilge planks and limber strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (i. e. numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

(3.) Having thus ascertained the transverse area at each computation point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner:

Number

Number the areas successively 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit at the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in Classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient being the tonnage under the tonnage deck shall be deemed to be the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned.

Poop and any (4.) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:

Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breaths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisoes; first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one twentieth of the remaining tonnage of the ship, and in case of such excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the Board of Trade.

In case of two or more decks. (5.) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively, 1, 2, 8, &c., commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space: divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

22. Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, registry with requiring to be measured for the purpose of registry, cannot cargo on board. be measured by the rule above given, shall be measured by the following rule, hereinafter called Rule II.:

(1.) Measure the length on the upper deck from the outside Length. of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it: measure also the greatest breadth of the ship to the outside of the Breadth. outer planking or Wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel; to Half the girth Girting of the thus taken add half the main breadth; square the sum; multiply the result by the length of the ship taken as aforesaid; then multiply this product by the factor .0018 (eighteen ten-thousandths) in the case of ships built of wood, and by .0021 (twenty-one ten thousandths) in the case of ships built of iron, and the product shall be deemed

deemed the register tonnage of the ship subject to the additions and deductions hereinafter mentioned.

spaces on upper deck.

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Poop and other closed-in (2.) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space, shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew as mentioned in rule I., be added to the tonnage of the ship ascertained as aforesaid.

RULE III.

Allowance for engine room in steamers.

23. In every ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows: (that is to say,)

steamers.

To be rateable (a.) As regards ships propelled by paddle wheels in which the in ordinary tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage:

space is unusually large or

May be measured (b.) As regards all other ships, the deduction shall, if the commissioners of customs and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required the deduction shall consist of the tonnage of the space actually occupied by or required to be inclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and in the case of ships propelled by screws of three fourths of the tonnage of such space, and the measurement and use of such space shall be governed by the following rules; (that is to say,)

Mode of meas- (1.) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measurements at

each end, and another at the middle of the length; take the mean of such breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall be deemed to be the tonnage of the said space:

(2.) If in any ship in which the space aforesaid is to be mea- In case of sured the engines and boilers are fitted in separate compartments. partments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space:

(3.) In the case of screw steamers in which the space afore- Shaft Trunk of said is to be measured, the contents of the shaft trunk screw steamer. shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100:

(4.) If in any ship in which the space aforesaid is to be mea- Alteration of sured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement:

(5.) If in any ship in which the space aforesaid is to be mea- Penalty for sured any goods or stores are stowed or carried in such in such in such space. space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds.

(See Imp. Act 35 & 36 Vict., c. 73, by which the duties of the Commissioners of Customs, with respect to the measurement of ships, are transferred to the Board of Trade.)

24. In ascertaining the tonnage of open ships the upper open ships edge of the upper strake is to form the boundary line of mea-howmeasured. surement, and the depths shall be taken from an athwartship line, extended from upper edge to upper edge of the said strake at each division of the length.

(Sec. 25 provided that in every registered British ship the number denoting the registered tonnage should be carved on her main main beam, but is repealed by Imp. Act 34 & 35 Vict., c. 110, and other provision is made as to the same subject by section 4 of that Act, and by Imp. Act 36 & 37 Vict., c. 85, sec. 3.)

Tonnage when the tonnage.

26. Whenever the tonnage of any ship has been ascered to be ever tained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined and registered according to the rules hereinbefore contained in that behalf.

Remeasure ment of ships already regis-

27. The rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered may be tered tonnage of any British ship registered before this Act to be compul-comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the commissioners of customs for the purpose, and such commissioners shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and sixpence for each transverse section, as they may authorize, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the registered tonnage shall be altered accordingly.

Power to re messure engine rooms improperly ex-tended.

28. If it appears to the commissioners of customs that in any steamship measured before this Act comes into operation store rooms or coal bunkers have been introduced into or thrown across the engine room, so that the deduction from the tonnage on account of the engine room is larger than it ought to be, the said commissioners may, if they think fit, direct such engine room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store rooms or coal bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules hereinbefore contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said commissioners shall cause the ship to be registered anew, or the registry thereof to be altered as the case may require.

Officers may be appointed and regulaof ships.

29. The commissioners of customs may, with the sanction of the treasury, appoint such persons to superintend tions made for the survey and admeasurement of ships as they think fit; and may, with the approval of the board of trade, make such regulations for that purpose as may be necessary; and also. also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

## Registry of British Ships.

36. The following persons are required to register British Begistrars of British Ships. ships, and shall be deemed registrars for the purposes of this Act; (that is to say,)

(The sub sections 1, 2, 3, 4, and 5 of this section named the officers who should be registrars of shipping in the British Possessions therein mentioned, but do not refer to Canada.)

(6.) At every other port or place so approved as aforesaid within Her Majesty's Dominions abroad, the collector, comptroller, or other principal officer of customs or of navigation laws, or if there is no such officer resident at such port or place, the Governor, Lieutenant Governor, or other person administering the government of the Possession in which such port or place is situate.

(But see Dom. Act 36 Vict., c. 128, s. 10.)

31. The Governor, Lieutenant Governor, or other person substitution of Governor administering the government in any British Possession abroad for where any ship is registered under the authority of this Act ers of Custome. shall, with regard to the performance of any act or thing re- and of Consul lating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the commissioners of customs; and any British consular officer shall, in any place where there is no justice of the peace, be authorized to take any declaration hereby required or permitted to be made in the presence of a justice of the peace.

- 32. Every registrar shall keep a book, to be called "The Registrar to Register Book," and enter therein the particulars hereinafter Books. required to be registered.
- 33. The port or place at which any British ship is registry of British tered for the time being shall be considered her port of registry. Ship. try or the port to which she belongs.
- 34. The following rules shall be observed with respect to Name of Ship the names of British registered ships; (that is to say,)
- (1.) Before registry the name of each ship and of the port to which she belongs shall be painted on a conspicuous part of her stern on a dark ground in white or yellow letters of a length not less than four inches:

(See Imp. Act 18 & 19 Vict., c. 91, s. 13, and Dom. Act 36 Vict., c. 128, s. 22.)

- (2.) No change shall be made in the name of any registered ship:
- (3.) No concealment, absence, or avoidable obliteration of the the above names shall be permitted, except for the purpose of escaping capture by an enemy:
- (4.) The ship shall not be described by or with the knowledge of the owner or master by any name other than the one by which she is registered:

And for every breach of the above rules, or any of them, the owner and master shall each incur a penalty not exceeding one hundred pounds.

(Further provision is made with reference to the subject of this section by Imp. Acts 18 & 19 Vict., c. 91, s. 13, 34 & 35 Vict., c. 110, s.s. 4 & 6, and 35 & 36 Vict. c. 73. s. 3; and see Dom. Act 36 Vict., c. 128, s. 22, as to the rules to be observed with respect to the names of ships registered in Canada.)

Application for Registry by whom to be made.

35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorized agent, and in the case of bodies corporate by their duly authorized agent; the authority of such agent, if appointed by individuals, to be testified by some writing under the hands of the appointors, and if appointed by a body corporate, by some instrument under the common seal of such body corporate.

Survey of Ship.

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act; and such surveyor shall grant a certificate in the form marked A in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the board of trade; and such certificate shall be delivered to the registrar before registry.

Rules as to 37. The following rules shall be observed with respect to Entries in the register book; (that is to say,)

- (1.) The property in a ship shall be divided into sixty-four shares:
- (2.) Subject to the provisions with respect to joint owners or owners by transmission hereinafter contained, not more than thirty-two individuals shall be entitled to be registered

tered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by, or claiming under or through any registered owner or joint owner:

- (3.) No person shall be entitled to be registered as owner of any fractional part of a share in a ship; but any number of persons, not exceeding five, may be registered as joint owners of a ship or of a share or shares therein:
- (4.) Joint owners shall be considered as constituting one person only as regards the foregoing rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severalty of any interest in any ship or in any share or shares therein in respect of which they are registered:
- (5.) A body corporate may be registered as owner by its corporate name.
- 38. No person shall be entitled to be registered as owner Declaration of of a ship or any share therein until he has made and ownership by subscribed a declaration in the form marked B. in the scheowner. dule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)
- (1.) A statement of his qualification to be an owner of a share in a British Ship:
- (2.) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building not known) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:
- (3.) A statement of the name of the master:
- (4.) A statement of the number of shares in such ship of which he is entitled to be registered as owner:
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein:

The above declaration of ownership shall be made and subscribed in the presence of the registrar if the declarant reside within within five miles of the custom house of the port of registry, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Declaration of ownership by body corporate.

- 39. No body corporate shall be entitled to be registered as owner of a ship or of any share therein until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the registrar of the port of registry a declaration in the form marked C. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)
- (1.) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a *British* ship:
- (2.) A statement of the time when and the place where such ship was built, or, (if the ship is foreign-built, and the time and place of building unknown,) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, (in the case of a ship condemned,) a statement of the time, place, and court at and by which she was condemned:
- (3.) A statement of the name of the master:
- (4.) A statement of the number of shares in such ship of which such body corporate is owner:
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein:

Evidence to be produced on registry.

- 40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence; (that is to say,)
- (1.) In the case of a British-built ship, a certificate, (which the builder is hereby required to grant under his hand), containing a true account of the proper denomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party, (if any), on whose account he has built the same, and, if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner:

(2.)

- (2.) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer, declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof:
- (3.) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

(See Dom. Stat. 36 Vict., c. 128, s. 13.)

41. If any builder wilfully makes a false statement in any Penalty on certificate hereby required to be granted by him, he shall, for false certificate offence, incur a penalty not exceeding one hundred cate. pounds.

(And see Imp. Act 18 & 19 Vict., c. 91, s. 9)

- 42. As soon as the foregoing requisites to the due registry Particulars of a ship have been complied with, the registrar shall enter Register Book in the register book the following particulars relating to such ship; (that is to say,)
- (1.) The name of the ship and the port to which she belongs:
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor:
- (3.) The several particulars as to her origin stated in the declaration of ownership:
- (4.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.
- 43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the register; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein shall have power absolutely to dispose in manner hereinafter mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

(But see Imp. Act 25 & 26 Vict., c. 63, s. 3.)

## Certificate of Registry.

#### Certificate of Registry to be granted.

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- 44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry in the form marked D. in the schedule hereto, comprising the following particulars; (that is to say,)
- (1.) The name of the ship and of the port to which she belongs:
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor:
- (3.) The name of her master:
- (4.) The several particulars as to her origin stated in the declaration or declarations of ownership:
- (5.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

(See Imp. Act 31 & 32 Vict., c. 129, as to the grant of terminable certificates of registry in the colonies.)

Change of owners to be indorsed on certificate of registry.

45. Whenever any change takes place in the registered ownership of any ship, then, if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall endorse thereon a memorandum of such change; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall endorse thereon a like memorandum of the change; or if she previously arrives at any port where there is a British registrar, such registrar shall, upon being advised by the registrar of he port of registry of the change having taken place, endorse a like memorandum thereof on the certificate of registry, and may for that purpose require the certificate to be delivered to him, so that the ship be not thereby detained; and any master who fails to deliver to the registrar the certificate of registry as hereinbefore required shall incur a penalty not exceeding one hundred pounds.

Change of master to be indorsed on certificate of registry.

46. Whenever the master of any British registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or, if there is

no registrar, the British consular officer resident at the the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the commissioners of customs in London; and the officers of customs at any port situate within Her Majesty's Dominions may refuse to admit any person to do any act at such port as master of any British ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

(Imp. Act 35 & 36 Vict., c. 73, s. 4, provides that this section shall be read and construed as if the Registrar General of Seamen were therein named, instead of the Commissioners of Customs; and see Dom. Stat. 36 Vict., c. 128, ss. 18, 19, and 20.)

47. The registrar may, with the sanction of the commis- Power to grant new certifisioners of customs, upon the delivery up to him of the former cate. certificate of registry, grant a new certificate in the place of the one so delivered up.

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48. In the event of the certificate of registry of any ship Provision in being mislaid, lost or destroyed, if such event occurs at any certificate. port in the United Kingdom, the ship being registered in the United Kingdom, or at any port in any British Possession the ship being registered in the same British Possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of, and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a British registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate, as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

(But see Dom. Stat. 36 Vict., c. 128, s. 15.)

49. Every such provisional certificate shall, within ten Provisional days after the first subsequent arrival of the ship at her port be delivered of discharge in the United Kingdom, if registered in the up. United Kingdom, or if registered elsewhere, at her port of discharge in the British Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master

master neglects to deliver up such certificate within such time he shall incur a penalty not exceeding fifty pounds.

Custody of certificate.

Delivery of

be required.

50. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate: And if any person whatever, whether interested or not in the ship, refuses, on request, to deliver up such certificate when in his possession or under his control to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognizance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal: And unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

Penalty for detention.

51. If the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

Penalty for

Mode of pro-ceeding, if detaining par-ty abscond.

52. If the master or owner of any ship uses or attempts per certificate to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor, and it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of customs, or any British consular officer, to seize and detain such ship, and to bring her for adjudication before the High Court of Admiralty in England or Ireland or any court having admiralty jurisdiction in Her Majesty's Dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture to be forfeited to Her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by ceasing to be reason of a transfer to any persons not qualified to be owners delivered up. of British ships, or any other matter or thing, any such ship as aforesaid ceases to be a British ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry to the registrar, or, if there be no registrar, to the British consular officer at such port, and such registrar, if he is not himself the registrar of her port of registry, or such British consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who, without reasonable cause, makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

(But see Dom. Stat. 36 Vict., c. 128, ss. 23 and 24.)

54. If any ship becomes the property of persons qualified Provisional to be owners of British ships at any foreign port, the British ship becoming consular officer resident at such port may grant the master of ish owners at such ship, upon his application, a provisional certificate, foreign port. stating-

The name of the ship;

The time and place of her purchase, and the names of her purchasers;

The name of her master:

The best particulars as to her tonnage, build, and description that he is able to obtain.

And he shall forward a copy of such certificate, at the first convenient opportunity, to the commissioners of customs in London: The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a British registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

(The Registrar General of Seamon is substituted for the Commissioner of Customs in this section by Imp. Act 35 & 36 Vict., c. 73, s. 4.)

### Transfers and Transmissions.

Transfer of ships or shares therein.

55. A registered ship or any share therein, when disposed of to persons qualified to be owners of *British* ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of, and be attested by, one or more witnesses.

Declaration to be made by transferree.

56. No individual shall be entitled to be registered as transferree of a ship or any share therein until he has made a declaration in the form marked F. in the schedule hereto, stating his qualification to be registered as owner of a share in a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferree of a ship or any share therein until the secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership made on behalf of a body corporate: In the case of an individual, the above declaration shall be made, if he reside within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Registration of transfer.

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a transferree; and the registrar shall thereupon enter in the register book the name of the transferree as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar.

58. If the property in any ship or in any share therein Transmission of shares by becomes transmitted in consequence of the death, or bank-death, bankruptcy or insolvency of any registered owner, or in conse-marriage, quence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the schedule hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferree, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which, and the party to whom such property has been transmitted; and such declaration shall be made and subscribed if the declarant resides at or within five miles of the custom house of the port of registry in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace.

59. If such transmission has taken place by virtue of the Proof of trans-bankruptcy or insolvency of any registered owner, the said bankruptcy... declaration shall be accompanied by such evidence as may marriage, will, for the time being be receivable in courts of Justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then in England, Wales, and Ireland, the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in Scotland or in any British Possession by the will or any copy thereof that may be evidence by the laws of Scotland or of such possession, or by letters of administration, or any copy thereof, or by such other document as may by the laws of Scotland or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

60. The registrar, upon the receipt of such declaration so Registration accompanied as aforesaid, shall enter the name or names of share. the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

61. Of the documents hereby required to be produced to Registrar to retain certain the registrar, he shall retain in his possession the following; evidence.

that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Unqualified owner entitled by transmission may apply to courts for sale of ship.

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner or on the marriage of any female owner in any person not qualified to be an owner of British ships, it shall be lawful, if such ship is registered in England or Ireland, for the Court of Chancery, if in Scotland, for the Court of Session, or if in any British Possession, for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires.

Order to be made by court

63. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar sall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisitions of any registered owner or owners of such ship or share.

Limit of time for application.

**64.** Every such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the time of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner hereinafter directed with respect to interests acquired by unqualified owners in ships using a British flag and assuming the British character.

Power of

65. It shall be lawful, in England or Ireland, for the Court courts to pro-hibit transfers, of Chancery, in Scotland, for the Court of Sessions, in any British Possession, for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise

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exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either ex parte or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted with or without costs, and generally to act in the premises in such as the justice of the case requires; and every registrar without being made a party to the proceedings, upon being served with such order, or an official copy thereof shall obey the same.

MERCHANT SHIPPING.

## Mortgages.

(See Dom. Stat. 36 Vict., c. 128, part 3, as to security for advances on ships about to be built or in course of construction.)

66. A registered ship or any share therein may be made a Mortgage of security for a loan or other valuable consideration; and the shares therein. instrument creating such security, hereinafter termed a "Mortgage," shall be in the form marked I. in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the registrar of the port at which the ship is registered shall record the same in the register book.

67. Every such mortgage shall be recorded by the regis- Mortgages to trar in the order of time in which the same is produced to in order of him for that purpose; and the registrar shall, by memoran-duction dum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

68. Whenever any registered mortgage has been discharged, Entry of disthe registrar shall, on the production of the mortgage deed, mortgage. with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged; and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

69. If there is more than mortgage registered of the same Priority of ship or share therein, the mortgagee shall, notwithstanding mortgages. any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

Mortgagee not to be deemed owner.

70. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as security for the mortgage debt.

Mortgagee to have power of sale.

71. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by mortgagor.

72. No registered mortgage of any ship or of any share therein shall be affected by any act of bankruptcy committed any act or bankruptey of by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof which may belong to the assignees of such bankrupt.

Transfer of mortgages.

73. A registered mortgage of any ship or share in a ship may be transferred to any person, and the instrument creating such transfer shall be in the form marked K. in the schedule hereto, and on the production of such instrument the registrar shall enter in the register book the name of the transferree as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transmission of interest of n ortgagee by deuth, bankmai riage.

74. If the interest of any mortgagee in any ship or in any share therein becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted made in the form marked L. in the schedule hereto, and containing a statement describing the manner in which, and the party to whom, such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar, or of any justice of the peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

75. The registrar, upon the receipt of such declaration and Entry of the production of such evidence as aforesaid, shall enter the morreage. name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

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## Certificates of Mortgage and Sale.

76. Any registered owner, if desirous of disposing by way Powers of of mortgage or sale of the ship or share in respect of which sale may be he is registered at any place out of the country or possession conferred by in which the port of registry of such ship is citate. in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

77. Previously to any certificate of mortgage or sale being Requisites for granted, the applicant shall state to the registrar, to be by certificates of mortgage and him entered in the register book, the following particulars; sale. (that is to say,)

- (1.) The names of the persons by whom the power mentioned in such certificate is to be exercised, and, in the case of a mortgage, the maximum amount of charge to be created, if it is intended to fix any such maximum, and, in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum:
- (2.) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained:
- (3.) The limit of time within which such power may be exercised.
- 78. No certificate of mortgage or sale shall be granted so Restrictions as to authorize any mortgage or sale to be made of mortgage
- At any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same British Possession if the port of registry is situate within a British Possession; or,

By any person not named in the certificate.

79. Certificates of mortgage and sale shall be in the forms Forms of certificates of mortmarked respectively M. and N. in the schedule hereto, and gage and sale.

shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and, in addition thereto, an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

# Rules as to certificates of mortgage.

- **80.** The following rules shall be observed as to certificates of mortgage; (that is to say,)
- (1.) The power shall be exercised in conformity with the directions contained in the certificate:
- (2.) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or British consular officer:
- (3.) No mortgage bond fide made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage:
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage bond fide made to a mortgage without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:
- (5.) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and if there be more mortgages than one so indorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other, according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage:
- (6.) Subject to the foregoing rules every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate:
- (7.) The discharge of any mortgage so registered on the certificate may be endorsed thereon by any registrar or British consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the register

register book; and upon such endorsement being made, the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made:

- (8.) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register, book; and every certificate so cancelled shall be void to all intents.
- 81. The following rules shall be observed as to certificates Rules as to of sale; (that is to say,)

  Rules as to certificates of sale.
- (1.) No such certificate shall be granted except for the sale of an entire ship:
- (2.) The power shall be exercised in conformity with the directions contained in the certificate:
- (8.) No sale bond fide made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale:
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no sale bond fide made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:
- (5.) Any transfer made to a person qualified to be the owner of British ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit:
- (6.) If the ship is sold to a party qualified to hold British ships, the ship shall be registered anew; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book:
- (7.) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale and the certificate of registry of such ship:

- (8.) Such last mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:
- (9.) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being resurveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferree:
- (IO.) If the ship is sold to a party not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to some registrar or consular officer, who shall shall retain the certificates of sale and registry, and having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of British ships, shall forward such certificates to the registrar of the port oppearing on such certificate of registry to be the port of registry of such ship; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:
- (11.) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by British law as having acquired no title to or interest in the ship; and further, the party upon whose application such certificate was granted, and the person exercising the power shall each incur a penalty not exceeding one hundred pounds:
- (12.) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book; and every certificate so cancelled shall be void to all intents.

82. Upon proof at any time to the satisfaction of the commissioners of missioners of customs that any certificate of mortgage or Customs in sale is lost or so obliterated as to be useless, and that the certificate of powers thereby given have never been exercised, or if they sale. have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said commissioners as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done as might have been made or done if no such loss or obliteration had taken place.

83. The registered owner for the time being of any ship or Revocation of share therein in respect of which a certificate of mortgage or mortgage and sale has been granted, specifying the place or places where the power thereby given is to be exercised, may by an instrument under his hand made in the form O. in the schedule hereto, or as near thereto as circumstances permit, authorize the registrar by whom such certificate was granted to give notice to the registrar or consular officer, registrars or consular officers, at such place or places, that such certificate is revoked; and notice shall be given accordingly; and all registrars or consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted, whether any previous exercise of the power to which such certificate refers has taken place.

## Registry anew, and Transfer of Registry.

84. Whenever any registered ship is so altered as not to altered as not to ship to be recorrespond with the particulars relating to her tonnage or gistered. description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper surveyor specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself

enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate, (if any), and enter such particulars and facts in his register book accordingly.

On alteration

85. When the registrar to whom application is made in registry anew may be require respect of any such alteration as aforesaid is the Registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship, and if he is not such registrar as lastly hereinbefore mentioned he may nevertheless require such ship to be registered anew, but he shall, in such last mentioned case, grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement.

Grant of provisional certificate, or certificate provisional certificate, or certificate provisional certificate provi quent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the British Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon cause such ship to be registered anew in the same manner in all respects as hereinbefore required on the first registry of any ship.

Consequence of omission to register anew.

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognized as a British ship.

On change of owners, regis-try anew may be granted, if required.

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

89. The registry of any ship may be transferred from one Registry may port to another upon the application of all parties appearing from port to on the register to be interested in such ship, whether as port. owners or mortgagees, such application to be expressed by a declaration in writing made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance in the presence of any registrar or of any justice of the peace.

90. Upon such application being made as is hereinbefore transfer of mentioned, and upon the delivery to him of the certificate of registry. registry, the registrar of the port at which such ship is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall, upon the receipt of such notice, enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

(See Imp. Act 18 & 19 Vict., c. 91, s. 12 post.)

91. The transfer of the registry of any ship in manner Transfer of registry not to aforesaid shall not in any way affect the rights of the several affect rights of persons interested either as owners or mortgagees in such owners. ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

## Registry, Miscellaneous.

92. Every person may, upon payment of a fee to be fixed Inspection of register books. by the commissioners of customs not exceeding one shilling, have access to the register book for the purpose of inspection at any reasonable time during the hours of official attendance of the registrar.

(The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post.)

93. No registrar shall be liable to damages or otherwise Indemnity to registrar. for any loss accruing to any person by reason of any act done

or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Return to be made by regis-trars to commissioners of customs.

94. Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated times as may be fixed by the commissioners of customs, transmit to the custom house in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said Commissioners.

(The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post, and the returns required by this sec. to be transmitted to the custom house in London are under that sec. to be transmitted to the Registrar General of Seamen.)

Application of

95. All fees authorized to be taken under the second part of this Act shall, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive government of the British possession in which they are taken may direct.

Commissioners of customs of Board of Trade may and issue instructions.

96. The commissioners of customs shall cause the several to provide and forms required or authorized to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within Her Majesty's Dominions for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct, and the said Commissioners, with the consent of the Board of Trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said Commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think it.

97. Whenever in any case in which under the second part Power to registrar to disof this Act any person is required to make a declaration on pense with behalf of himself or of any body corporate, or any evidence and other is required to be produced to the registrar, it is shown to the evidence. satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the commissioners of customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

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98. In cases where it appears to the commissioners of Power for customs or to the Governor or other person administering the or Governor in government of any British Possession, that by reason of special cases special circumstances it would be desirable that permission to registered. should be granted to any British ship to pass, without being previously registered, from one port or place in Her Majesty's Dominions to any other port or place within the same, it shall be lawful for such commissioners or Governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

(See the provision made on this subject by Dom. Stat., 36 Vict., c. 128, s. 9.) •

99. If any person interested in any ship or any share Provision for therein is, by infancy, lunacy, or other inability, incapable of cy or other inmaking any declaration or doing any thing required or per- capacity. mitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapa ble person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

100. Whenever any person is beneficially interested, Liabilities of owners. otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them.

Forgery.

## Forgery.

Panishment for forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony.

(See Dom. Stat. 32 & 33 Vict., c. 19, s. 4.)

#### National Character.

ance.

National character of ship to be declared transire for any ship until the master of such ship has debefore clearclared to such officer the name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or transire; and if any ship attempts to proceed to see without such clearance or transire, any such officer may detain her until such declaration is made.

Penalties:

103. The offences hereinafter mentioned shall be punishable as follows: (that is to say,)

For unduly as-suming a British flag and assumes the British flag and assumes the British national character on board any ship owned in British national character on board any ship owned in whole or in part by any persons not entitled by law to own British ships, for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same:

ment of British (2.) or assumption of foreign cha-

If the master or owner of any British ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor:

(8.)

(3.) If any unqualified person, except in the case of such For acquiring transmitted interests as are hereinbefore mentioned unqualified. acquires as owner any interest, either legal or beneficial, in a ship, using a British flag and assuming the British character, such interest shall be forfeited to Her Majesty:

(4.) If any person, on behalf of himself or any other person For false deor body of persons, wilfully makes a false declaration ownership. touching the qualification of himself or such other person or body of persons to own British ship or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty:

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of customs, or any British consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the high court of admiralty in England or Ireland, or any court having admiralty jurisdiction in Her Majesty's Dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

(See also Imp. Act 18 & 19 Vict., c. 91, s. 9, post.)

104. No such officer as aforesaid shall be responsible, officer not lie-either civilly or criminally, to any person whomsoever, in ble for any seizure made respect of the seizure or detention of any ship that has been on reasonable seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just.

105. If any colours usually worn by Her Majesty's ships, Penalty for or any colours resembling those of Her Majesty, or any disperse colours. tinctive

tinctive national colours, except the red ensign usually worn by merchant ships, or except the Union Jack with a white border, or if the pendant usually carried by Her Majesty's ships or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of Her Majesty without warrant for so doing from Her Majesty, or from the admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of Her Majesty, or any British officer of the customs or any British consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to Her Majesty.

Effect of de-claration in ship shall not be recognized s a British ship.

106. Whenever it is declared by this Act that a ship bethe Act that a longing to any person or body corporate qualified according to this Act to be owners of British ships shall not be recognized as a British ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships, and shall not be entitled to use the British flag or assume the British national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized British ship.

#### Evidence.

Copies of re-gisters and de-clarations to be admissible of certain things.

107. Every register of or declaration made in pursuance of the second part of this Act in respect of any British ship may be proved in any court of justice, or before any person and to be prima facte troof having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any British ship, purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice or before any person having by law or by consent of parties authority to receive evidence as prima facie proof of all the matters contained or recited in such register when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and purporting

purporting to be authenticated by the signature of a registrar, when such certificate is produced.

(See Imp. Act 18 & 19 Vict., c. 91, s. 15, post.)

(Sec. 108 refers only to ships built and trading in the East Indies.)

#### PART III.

#### MASTERS AND SEAMEN.

## Application.

109. The various provisions of the third part of this Act Application of Part III. of shall have the following applications, unless the context or Act. subject matter requires a different application; (that is to say,)

So much of the third part of this Act as relates to the de-Return for certain ships believely or transmission of lists of crews to the registrar longing to the united Kinggeneral of seamen shall apply to all fishing vessels bedom. longing to the United Kingdom, whether employed exclusively on the coasts of the United Kingdom or not; to all ships belonging to the Trinity House, or the commissioners of northern lighthouses, constituted as hereinafter mentioned, or the port of Dublin corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships.

So much of the third part of this Act as relates to the de-Returns and livery and transmission of lists of crews, and to the ceased seamen wages and effects of deceased seamen and apprentices, nial ships. shall apply to all sea-going British ships, wherever registered, of which the crews are discharged, or whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships:

So much of the third part of this Act as relates to the ship-shipping and ping and discharge of seamen in the United Kingdom discharging men in the shall apply to all sea-going British ships, wherever regis-dom. tered, and to the owners, masters, and crews of such ships:

Volunteering into the Navy. So much of the third part of this Act as relates to seamen volunteering into the Royal Navy shall apply to all seagoing British ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be:

Provisions applicable to Colonial ships.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof; to the shipping and discharge of seamen in foreign ports; to leaving seamen abroad, and to the relief of seamen in distress in foreign ports; to the provisions, health and accommodation of seamen; to the power of seamen to make complaints; to the protection of seamen from imposition; to discipline; to naval courts on the high seas and abroad; and to crimes committed abroad; shall apply to all ships registered in any of Her Majesty's Dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships:

And the whole of the third part of this Act shall apply to all sea-going ships registered in the United Kingdom, (except such as are exclusively employed in fishing on coasts of the United Kingdom, and such as belong to the Trinity House, the commissioners of northern light-houses, or the port of Dublin corporation, and also except pleasure yachts,) and also to all ships registered in any British Possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the Possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.

(See Imp. Act 25 & 26 Vict., c. 63, s. 13 post.)

#### Local Marine Boards.

Constitution of local marine boards.

110. There shall be local marine boards for carrying into effect the provisions of this Act under the superintendence of the board of trade at those seaports of the United Kingdom at which local marine boards have heretofore been established, and at such other places as the board of trade appoints for this purpose; and each of such local marine boards shall be constituted as follows; (that is to say,) the mayor or Provost and stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the board of trade appoints shall be a member or members ex officio; the board of trade shall appoint four members from persons residing or having places of at the port or within seven miles thereof; and the owners of foreign-going ships and of home trade passenger ships regis-

tered at the port shall elect six members; and such elections as aforesaid shall take place on the twenty-fifth day of January one thousand eight hundred and fifty-seven, and on the twenty-fifth day of January in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections; and upon the conclusion of such month and the constitution of a new board, the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place; and any occasional vacancy caused in the intervals between the general elections and appointments, by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days notice thereof; and the board of trade shall have power to decide any questions raised concerning any such elections.

111. Owners of foreign-going ships and of home trade Qualification passenger ships registered at any seaport at which there is a members of local marine board shall have votes at the election of members boards. of such board as follows; (that is to say,) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at every election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten:

And for the purpose of ascertaining the qualication of such electors the following rules shall be observed; (that is to say),

In the case of a ship registered in the name of one person, such person shall be deemed to be the owner:

And in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him:

And in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners, and each of such joint owners shall be deemed to be the owner of the equal share so apportioned to him, but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register:

And in making any such apportionment as aforesaid any portion may be struck off so as to obtain a divisible amount; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

Lists of such voters to be made.

112. The collector or comptroller of customs in every seaport of the United Kingdom at which there is a local marine board shall, with the assistance of the registrar general of seamen, on or before the twenty-fifth day of December in the year one thousand eight hundred and fifty-six, and in every third succeeding year, make out an alphabetical list of the persons entitled by virtue of this Act to vote at the election of members of such local marine board, containing the Christian name, surname, and residence of each such person, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed, and to be fixed on or near the doors of the custom house at such seaport for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person, without payment of any fee, at all reasonable hours during such two wecks.

Revision of list

113. The mayor or provost of every seaport at which there is a local marine board, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall at least twenty days before the twenty-fifth day of January, in the year one thousand eight hundred and fifty-seven, and in each succeeding third year, nominate two justices of the peace to revise the said lists; and such justices shall, between the eighth and fifteenth days of January both inclusive in the year in which they are so nominated, revise the said list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said collector or comptroller, and shall give three clear days notice of such revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of such custom house, and shall make such revision by inserting in such list the name of every person who claims to be inserted therein, and gives proof satisfactory to the said revisors of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of which an objection is made by any other person named in such list who gives proof satisfactory to the said revisors that the name

of the person so objected to qualit not to have been inserted therein; and the decision of the said revisors with respect to every such claim or objection shall be conclusive; and the said revisors shall immediately after such revision sign their names at the foot of the list so revised; and such list so revised shall be the register of voters at elections of members of the local marine board, of such seaport for three years from the twenty-fifth day of January then next ensuing inclusive to the twenty-fourth day of January inclusive in the third succeeding year; and the said revised list, when so signed, shall be delivered to such mayor or provost as aforesaid of the place, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same.

114. The said collector or comptroller, if required, shall registers to be for the assistance of the said revisors in revising the said list produced. produce to them the books containing the register of ships registered at such seaport; and the registrar general of seamen, if required, shall also produce or transmit to such revisors such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

115. The two justices aforesaid shall certify all expenses Expenses to be properly incurred by any such collector or comptroller as paid by board of trade. aforesaid in making and printing the said list and in the revision thereof, and the board of trade shall pay the same, and also all expenses properly incurred by any such mayor or provost as aforesaid in printing the same or in elections taking place under this Act; and the said board may disallow any items of any such expenses as aforesaid which it deems to have been improperly incurred.

116. Every person whose name appears on such revised Persons on relist, and no other person, shall be qualified to vote at the ineq to vote. election of members of the local marine board at such seaport to be held on the twenty-fifth day of January next after the revision of such list, and at any occasional election held at any time between that day and the next ordinary triennial election of the members of such board.

117. Every male person who is according to such revised qualification list of the voters at any seaport entitled to a vote shall be local marine qualified to be elected a member of the local marine board of boards. such seaport, and no other person shall be so qualified; and if any person elected as a member after such election ceases to be an owner of such quantity of tonnage as would entitle him to a vote, he shall no longer continue to act or be considered as a member, and thereupon another member shall be elected in his place.

118. No act of any local marine board shall be vitiated or Error in electror in electror in the election of any tiens not to vitiate acts done.

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of its members, or of any error in the list of voters herein mentioned, or of any irregularity in the making or revising of such list, or by reason of any person who is not duly qualified as herein-before directed acting upon such board.

Minutes and business of local marine boards. 119. Every local marine board shall keep minutes of its proceedings, and the same shall be kept in such mode (if any) as the board of trade prescribes; and such minutes, and all books or documents used or kept by any local marine board, or by any examiners, shipping masters, or other officers or servants under the control of any local marine board, shall be open to the inspection of the board of trade and its officers; and every local marine board shall make and send to the board of trade such reports and returns as it requires; but, subject as aforesaid, every local marine board may regulate the mode in which its meetings are to be held and its business conducted.

(See Imp. Act 25 & 26 Vict., c. 63, s. 14.)

If any local marine board faits to discharge its duties, board of trade may assume its duties, or direct a new election. 120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued non-attendance of all or the greater part of the members or from any other cause, fails to meet or to discharge its duties, the board of trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately.

Board of trade, on complaint, may alter arrangements made by local marine boards.

121. If upon complaint made to the board of trade it appears to such board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the board of trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intentions of this Act and to the wants of the port, it deems to be expedient.

## Shipping offices.

Local marine boards to establish shipping offices. 122. In every seaport in the United Kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and re-appoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the

the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

(See Imp. Act 25 & 26 Vict., c. 63, s. 15.)

123. The sanction of the board of trade shall be necessary Board of trade as far as regards the number of persons so appointed by any control over such local marine board, and the amount of their salaries cases and wages and all other expenses; and the board of trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the board of trade requires; and if in any case the board of trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the board of trade may cause the case to be investigated, and may, if it thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place.

124. It shall be the general business of shipping masters Business of appointed as aforesaid—

generally.

- To afford facilities for engaging seamen by keeping registries of their names and characters;
- To superintend and facilitate their engagement and discharge in manner hereinafter mentioned;
- To provide means for securing the presence on board at the proper times of men who are so engaged;
- To facilitate the making of apprenticeships to the sea service;
- To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.
- 125. Such fees, not exceeding the sums specified in the table Fees to be paid marked P. in the schedule hereto, as are from time to time upon engagefixed by the board of trade, shall be payable upon all engage- charges. ments and discharges effected before shipping masters as hereinafter mentioned, and the board of trade shall cause scales of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

by the board of trade.

Masters to pay tees and to dewages,

126. Every owner or master of a ship engaging or disduct part from charging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q, in the schedule hereto: provided, that if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid

Proviso as to excess.

Penalty on

ration.

shipping mas-ters taking

other remune-

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office

by him to the shipping master in addition to such fee.

Business of shipping offices, may be transacted at

128. The board of trade may, with the consent of the commissioners of customs, direct that at any place in which custom houses no separate shipping office is established the whole or any part of the business of the shipping office shall be conducted at the custom house, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom house shall for all purposes be deemed to be a shipping office, and the officer of customs there to whom such business is committed shall for all purposes be deemed to be a shipping master within the meaning of this Act.

In London sailors' homes may be ship-ping offices.

129. The board of trade may appoint any superintendent of or other person connected with any sailors' home in the port of London to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the board of trade and not of the local marine board of the port.

Dispensation with shipping master's superintendence.

130. The board of trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Examinations and Certificates of Masters and Mates.

Examinations to be instituted for masters and mates.

**131.** Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of of home trade passenger ships, or who wish to procure certificates of competency hereinafter mentioned; and subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and re-appoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

(Imp. Act 25 & 26 Vict., c. 63, s. 17, provides for the examination of masters and mates at ports where there are no local marine boards.)

132. The board of trade may from time to time lay down Powers of rules as to the conduct of such examinations and as to the board of trade over examinaqualifications of the applicants, and such rules shall be strictly tions. adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the board of trade; and the sanction of the board of trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the board of trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the board of trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorize the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

133. All applicants for examination shall pay such fees, Fees to be not exceeding the sums specified in the table marked R. in paid by applicants for exthe schedule hereto, as the board of trade directs; and such amination. fees shall be paid to such persons as the said board appoints for that purpose.

134. Subject to the proviso herein-after contained, the certificates of board of trade shall deliver to every applicant who is duly be granted to reported by the local examiners to have passed the examination there who pass. tion satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home trade passenger ship, as the case may be:

Provided that in every case in which the board of trade has reason to believe such report to have been unduly made, such board may remit the case either to the same or to any other examiners. examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

Certificates of service to be delivered to persons who served as mas- 88y), ters or mates before 1861 and certificates of service for home trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January 1854.

- 135. Certificates of service, differing in form from certificates of competency, shall be granted as follows; (that is to
- and to certain naval officers; (1.) Every person who before the first day of January one thousand eight hundred and fifty-one served as master in the British merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank in the service of Her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships:
  - (2.) Every person who before the first day of January one thousand eight hundred and fifty-one served as mate in the British merchant service shall be entitled to a certificate of service as mate for foreign-going ships:
  - (3.) Every person who before the first day of January one thousand eight hundred and fifty-four has served as master of a home trade passenger ship shall be entitled to a certificate of service as master for home trade passenger ships :
  - (4.) Every person who before the first day of January one thousand eight hundred and fifty-four has served as mate of a home trade passenger ship shall be entitled to a certificate of service as mate for home trade passenger ships:

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No foreigngoing ship or home trade passenger ship to pro-ceed to sea without certifienter of the master and mutes.

136. No foreign-going ship or home trade passenger ship shall go to sea from any port in the United Kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home trade passenger ship the first or only mate, (as the case may be), have obtained and possess valid certificates either of competency or service appropriate to their several stations in such ship, or of a higher grade;

and no such ship, if of one hundred tons burden or unwards. shall go to sea as aforesaid, unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreigngoing ship, or as master or first or only mate of a home trade passenger ship, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, or who employ any person as master, or first, second, or only mate of any foreigngoing ship, or as master or first or only mate of a home trade passenger ship, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

(Imp. Act 25 & 26 Vict., c. 63, s. 5, provides that every steamship which is by this Act required to have a master possessing a certificate shall also have an engineer possessing a certificate; and sections 5-12 of that Act provides for the examination of and granting of certificates to engineers.)

137. Every certificate of competency for a foreign-going Certificates for 137. Every certificate of competency for a foreign-going certificate ship shall be deemed to be of a higher grade than the corressing ships available ponding certificate for a home trade passenger ship, and shall passenger passenger entitle the lawful holder thereof to go to sea in the corres- anips. ponding grade in such last mentioned ship; but no certificate for a home trade passenger ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship.

138. All certificates whether of competency or service, The registrar shall be made in duplicate, and one part shall be delivered to the grants, cancel the person entitled to the certificate, and the other shall be lations, doc, of certificates. kept and recorded by the registrar general of seamen or by such other person as the board of trade appoints for that purpose; and the board of trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such regis- Duplicates trar or his assistant, or by such person as aforesaid of any be evidence. certificate shall be prima facie evidence of such certificate and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be prima facie evidence of the truth of the matters stated in such entry.

139. Whenever any master or mate proves to the satisfac- In case of loss tion of the board of trade that he has, without fault on his granted. part, lost or been deprived of any certificate already granted

to him, the board of trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Penalties for false representations;

for forging or altering or fraudulently using or lending any certifi-

140. Every person who makes, or procures to be made, or assists in making, any false representation for the parpose of obtaining for himself or for any other person a certificate either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

## Apprenticeships to the Sea Service.

Shipping masmay receive fees.

141. All shipping masters appointed under this Act shall, ters to assist
141. All shipping masters appointed under this Act shall, in binding apprentices, and if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the board of trade, with the concurrence, so far as relates to pauper apprentices in England, of the poor law board in England, and so far as relates to pauper apprentices in *Ireland*, of the poor law commissioners in Ireland.

Indentures of bovs bound sea service by guardians or overseers to be witnessed by two justices.

142. In the case of every boy bound apprentice to the sea apprentices to service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

Indentures of apprentice-ship to be exempt from stamp duty recorded.

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the United Kingdom shall within seven days after the execution

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of the indentures take or transmit the same to the registrar general of seamen or to some shipping master; and the said registrar or shipping master shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the United Kingdom, or if the same happens elsewhere so soon afterwards as circumstances permit, notify the same either to the said registrar of seamen, or to some shipping master, to be recorded; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.

(Secs. 144 & 145 related only to the apprenticeship of paupers in Great Britain and Ireland.)

## Engagement of Seamen.

(See Dom. Act, 38 Vict., c. 29.)

146. The board of trade may grant to such persons as it Board of trade thinks fit license to engage or supply seamen or apprentices may license for merchant ships in the United Kingdom, to continue for euroseamen. such periods, to be upon such terms, and to be revocable upon such conditions, as such board thinks proper.

- 147. The following offences shall be punishable as herein- Ponalties: after mentioned; (that is to say,)
- (1.) If any person not licensed as aforesaid, other than the for supplying owner or master or a mate of the ship, or some person out license; who is bond fide the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds:

(2.) If any person employs any unlicensed person, other than for employing persons so excepted as aforesaid, for the purpose of en-uniteened persons; gaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds, and, if licensed, shall in addition forfeit his license:

(8.) If any person knowingly receives or accepts to be entered for receiving on board any ship any seaman or apprentice who has seamenillegalbeen engaged on supplied contrary to the provisions of

this Act, he shall for every seaman and apprentice so engaged or supplied incur a penalty not exceeding twenty pounds.

Penalty for receiving remuneration from seamen for shipping them. 148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds.

Agreements to be made with seamen, containing certain particulars. eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the United Kingdom as one of his crew in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the board of trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, (that is to say,)

- (1.) The nature, and, as far as practicable, the duration of the intended voyage or engagement:
- (2.) The number and description of the crew, specifying how many are engaged as sailors:
- (3.) The time at which each seaman is to be on board or to begin work:
- (4.) The capacity in which each seaman is to serve:
- (5.) The amount of wages which each seaman is to receive:
- (6.) A scale of the provisions which are to be furnished to each seaman:
- (7.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the board of trade as regulations proper to be adopted and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law:

Provided

Provided that if the master of any ship belonging to any Proviso as to British Possession has an agreement with his crew made in colonial ships. due form according to the Law of the Possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the board of trade.

(See Imp. Act 36 & 37 Vict., c. 85, s. 7.)

150. In the case of all foreign-going ships, in whatever For foreignpart of Her Majesty's Dominions the same are registered, the soing ships such agree-following rules shall be observed with respect to agreements; ments, when made in the (that is to say,)

- (1.) Every agreement made in the United Kingdom (except to be made, in such cases of agreements with substitutes as are hereinafter specially provided for shall be simple. seaman in the presence of a shipping master:
- (2.) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature:
- (3.) When the crew is first engaged the agreement shall be To be in dusigned in duplicate, and one part shall be retained by plicate; the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master:

(4.) In the case of substitutes engaged in the place of sea- Provisions for men who have only signed the agreement, and whose substitutes. services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified; and whenever such lastmentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

151. In the case of foreign-going ships making voyages Foreign-going averaging less than six months in duration, running agree-short voyages ments with the crew may be made to extend over two or more may have run-

Voyages, ments.

voyages, so that no such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement' and discharge of seamen in the meantime.

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the United Kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so indorsed to the shipping master; and any master who wilfully makes a false statement in such indorsement shall incur a penalty not exceeding twenty pounds; and the shipping master shall also sign an indorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Duplicates of

153. In cases in which such running agreements are made, running agree the duplicate agreement retained by the shipping master bedealt with months first engagement of the green shall either be transupon the first engagement of the crew shall either be transmitted to the registrar general of seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the board of trade directs.

Fees to be paid on such running agree-

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In home trade ships agree-ment to be before a ship-

155. In the case of home trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect

respect to foreign-going ships; and in every case in which ping master or other witness. the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

156. In cases where several home trade ships belong to special agreements same owner, the agreement with the seamen may, not-home trade with standing anything herein contained, be made by the owner ing to same instead of by the master, and the seamen may be engaged owners. to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but with the foregoing exception all provisions herein contained which relate to ordinary agreements for home trade ships shall be applicable to agreements made in pursuance of this section.

157. If in any case a master carries any seaman to sea Penalty for without entering into an agreement with him in the form and men without manner and at the place and time hereby in such case re-duly executed. quired, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, shall for each such offence incur a penalty not exceeding five pounds.

158. The master of every foreign-going ship of which the Changes in crew has been engaged before a shipping master shall before reported. finally leaving the United Kingdom sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the board of trade, of every change which takes place in his crew before finally leaving the United Kingdom, and in default shall for each offence incur a penalty not exceeding five pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

159. Every master of a ship who, if such ship is regissequent the United Kingdom, engages any seaman in any colonies to be
British Possession, or if such ship belongs to any British some shipping Possession, engages any seaman in any British Possession master or officer than that to which the ship belongs shall if there is other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of customs; and the same rules, qualifications, and penalties, as are hereinbefore specified with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements in a British Possession; and upon every such engagement such

shipping master or officer as aforesaid shall indorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master.

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the consul.

160. Every master of a British ship who engages any seaman at any place out of Her Majesty's Dominions in which there is a British consular officer shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage such seaman before such officer; and the same rules as are hereinbefore contained with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements made before consular officers; and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and every master who engages any seaman in any place in which there is a consular officer, otherwise than as hereinbefore required, shall incur a penalty not exceeding twenty pounds; and if in any case the indorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as hereinbefore required shall lie upon the master.

Bules as to production of agreements and certificates of masters and mates of foreigngoing ships.

- 161. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships; (that is to say,)
- (1.) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service which the said master and his first and second mate or only mate, as the case may be, are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:
- (2.) In the case of running agreements for foreign-going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect:

- (3.) The master of every foreign-going ship shall, beforeproceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of customs, and no officer of customs shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced:
- (4.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs shall clear any foreign-going ship inwards without the production of such certificate:

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

162. The following rules shall be observed with respect to Bules as to production of the production of agreements and certificates of competency agreements are garvice for home trade ships: (that is to say.) or service for home trade ships; (that is to say,)

cates for home

- (1.) In the case of home trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival:
- (2.) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the the thirty-first day of December in every year, transmit or deliver to some shipping master in the United Kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first and only mate, as the case may be, are hereby required to possess:
  - (3.) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs shall grant a clearance or transire for any such ship as last aforesaid without the production

production of such certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced:

And if the agreement for any home trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Alterations to be void unless attested to have been made with the consent of all parties.

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's Dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's Dominions) of a British consular officer, or where there is no such officer, of two respectable British merchants.

Penalty for falsifying agreement.

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall for each such offence be deemed guilty of a misdemeanor.

Seamen not to ment.

165. Any seaman may bring forward evidence to prove produce agree the contents of any agreement or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Copy of agree-ment to be made accessible to crew.

166. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Beamen discharged before compensation.

167. Any seaman who has signed an agreement, and is voyage to have afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing earing the case deems satisfactory of his having been so imroperly discharged as aforesaid, recover such compensation if it were wages duly earned.

## Allotment of Wages.

168. All stipulations for the allotment of any part of the Regulations as wages of a seaman during his absence which are made at the notes. commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the board of trade.

169. The wife, or the father or mother, or the grand-Alletment notes may be father or grandmother, or any child or grandchild, or any sued on sumbrother or sister of any seaman in whose favour an allotment tain persons note of part of the wages of such seaman is made, may, unless and under certain conditions. The seaman is shown in manner hereinafter mentioned, to tions. have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note, either in the county court or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Provided that the wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour.

Discharge and Payment of Wages.

(See Dom. Act, 38 Vict., c. 29.)

170. In the case of all British foreign-going ships, in Discharge whatever part of Her Majesty's Dominions the same are going ships to registered.

174.

shipping master.

be made before registered, all seamen discharged in the United Kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the United Kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home trade ships seamen may, if the owner or master so desires, be discharged, and receive their wages in like manner.

Master to deliver account of wages.

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master a full and true account, in a form sanctioned by the board of trade, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered: and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge masters to give seamen certifi-cates of discharge, and cate of competency or service to mates.

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the board of trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also, upon the discharge of every certificated mate, whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding twenty pounds.

Shipping mas-ter may decide questions which parties refer to him.

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any court of justice, be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be prima facie evidence thereof.

174. In any proceeding relating to the wages, claims, or Master and discharge of any seaman, carried on before any shipping duce ship's master under the provisions of this Act, such shipping master papers to shipping masters may call upon the owner or his agent, or upon the master or and give any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping master, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

- 175. The following rules shall be observed with respect to Settlement of the settlement of wages; (that is to say,)
- (1.) Upon the completion before a shipping master of any Belease to be discharge and settlement, the master or owner and each and attented seaman shall respectively in the presence of the ship-by the ship-ping master; ping master sign, in a form sanctioned by the board of trade, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed:

- (2.) Such release so signed and attested shall operate as a To be dismutual discharge and settlement of all demands between charge: the parties thereto in respect of the past voyage or engagement:
- (3.) A copy of such release, certified under the hand of such and to be evidence. shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy:
- (4.) In cases in which discharge and settlement before a No other rescient to he a shipping master are hereby required, no payment, redischarge. ceipt, settlement, or discharge otherwise made, shall operate or be admitted as evidence of the release or satisfaction of any claim:
- (5.) Upon any payment being made by a master before a voucher to be shipping master, the shipping master shall, if required, ter, and to be sign and give to such master a statement of the whole evidence.

amount so paid; and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned:

Master to make reports of character.

176. Upon every discharge effected before a shipping master the master shall make and sign, in a form sanctioned by the board of trade, a report of the conduct, character, and qualifications of the persons discharged, or may state, in a column to be left for that purpose in the said form, that he declines to give any opinion upon such particulars or upon any of them; and the shipping master shall transmit the same to the registrar general of seamen, or to such other person as the board of trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report or of any copy of any certificate or report which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Remittance of Wages and Savings Banks for Seamen.

Pacilities may be given for remitting seamen's wages.

177. Facilities shall, if the board of trade so directs, be given for remitting the wages and other monies of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the board of trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the board of trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Power to pay when order is lost. 178. The board of trade may, in any case in which it thinks fit so to do, cause the amount of any such money order

order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the board of trade and every shipping master, or other officer of the board of trade, shall be freed from all liability in respect of such order.

179. Every shipping master or other public officer who Penalty for grants or issues any money order with a fraudulent intent, orders with shall in England or Ireland be deemed guilty of felony, and fraudulent in Scotland of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

180. The commissioners for the reduction of the national Savings Banks debt, or the comptroller general acting under them, may, on may be established. the application and recommendation of the board of trade, establish savings banks at such ports and places within the United Kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account, under such regulations as may be prescribed by the said commissioners or comptroller general; and such regulations shall be binding on all such treasurers and depositors; and the said commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks, except so far as relates to the annual amount of deposit, shall apply to all saving banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid.

(See Imp. Act, 18 & 19 Vict., c. 91, s. 17, post.)

# Legal Rights to Wages.

181. A seaman's right to wages and provisions shall be night to wages taken to commence either at the time at which he commences when to begin. work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

182. No seaman shall by any agreement forfeit his lien seamen not to upon the ship, or be deprived of any remedy for the recovery give up certain of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any sea-

man consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 18, post.)

of freight.

wages not to be dependent on the earning on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

In case of death, such waves to be paiu as after mentioned.

184. If any seaman or apprentice, to whom wages are due under the last preceding enactment, dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

Rights to of service by vreck or

185. In cases where the service of any seaman terminates wages in case of termination before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within

187. The master or owner of every ship shall pay to which wages are to be paid. every seaman his wages within the respective periods following; (that is to say,) in the case of a home trade ship within two days after the termination of the agreement or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days

days after the seaman's discharge, whichever first happens; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid, without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

### Mode of recovering Wages.

188. Any seaman or apprentice, or any person duly seamen may authorized on his behalf, may sue in a summary manner in a summary before any two justices of the peace acting in or near to the manner. place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in Scotland either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such justices or sheriff in the matter shall be final.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 21.)

189. No suit or proceeding for the recovery of wages under Restrictions the sum of fifty pounds shall be instituted by or on behalf of wages in superany seaman or apprentice in any court of admirality or viceadmiralty, or in the court of session in Scotland, or in any superior court of record in Her Majesty's Dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

190. No seaman who is engaged for a voyage or engage-No seaman to ment which is to terminate in the United Kingdom shall be abroad, except entitled to sue in any court abroad for wages, unless he is charge or of charge or of the charge or of th discharged with such sanction as herein required and with the danger to life. written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to the United Kingdom proves that the master or owner has

been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation not exceeding twenty pounds as the court hearing the case thinks reasonable.

Master to have same remedies for wages as seamen.

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any court of admiralty or vice-admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

(Secs. 192 & 193 provided for relief to seamen's families out of poor rates.)

### Wages and Effects of deceased Seamen.

Masters to and enter the

- 194. Whenever any seaman or apprentice belonging to take charge of or sent home in any British ship whether a foreign-going ship of deceased seamen which or a home trade ship, employed on a voyage which is to teror sent home in any British ship whether a foreign-going ship minate in the United Kingdom, dies during such voyage, the master shall take charge of all money, clothes, and effects the official log. which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars: (that is to say,)
  - (1.) A statement of the amount of the money and a description of the effects so left by the deceased:
  - (2.) In case of a sale, a description of each article sold, and the sum received for each:
  - (3.) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom : .

And shall cause such entry to be attested by a mate and by one of the crew.

Such effects to shipping master, with full accounts.

and wages to and wages to the last preceding sec-be paid either tion, the following rules shall be observed; (that is to say,) to consulor 195. In the cases provided for by the last preceding sec-

(1.)

- (1.) If the ship proceeds at once to any port in the United Kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the United Kingdom:
- (2.) If the ship touches and remains for forty-eight hours at some foreign port or at some port in Her Majesty's Dominions abroad before coming to any port in the United Kingdom, the master shall report the case to the British consular officer or officer of customs there, as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him and shall upon such delivery and payment give to the master a receipt, and the master shall within fortyeight hours after his arrival at his port of destination in the United Kingdom produce the same to the shipping master there; and such consular officer or officer of customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the board of trade requires:
- (3.) If such officer as aforesaid does not require such payment and delivery to be made to him, the master shall take charge of the said effects, money, and wages, and shall, within forty-eight hours after his arrival at his port of destination in the United Kingdom deliver and pay the same to the shipping master there:
- (4.) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the board of trade, or to such officer or shipping master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the board of trade, or by the officer or shipping master to whom the account is rendered:
- (5.) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United Kingdom, the shipping master shall grant to the master a certificate to that effect, and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate.

Penalties for not taking charge of, remitting, or accounting for such monies and effects.

196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to the board of trade, and shall pay and deliver the same accordingly; and such master shall, in addition for every such offence, incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to

Officers of and their of trade.

197. If any such seaman or apprentice as last aforesaid customs and consuls to take dies abroad at any place, either in or out of Her Majesty's charge of effects left by Dominions, leaving any money or effects not on board his seamen abroad, and to ship, the chief officer of customs or the British consular offiremit the same cer at or nearest to the place, as the case may be, shall vages to board claim and take charge of such money and effects; and such officer shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions hereinbefore contained; and every such officer shall, quarterly or at such other times as the board of trade directs, remit to Her Majesty's paymaster general all monies belonging to or arising from the sale of the effects of or paid as the wages of any deceased seaman or apprentice which have come to his hands under the provisions hereinbefore contained, and shall render such accounts in respect thereof as the board of trade requires.

(See Imp. Act 25 & 26 Vict., c. 63, s. 20, post.)

Wages and effects of sea-men dying at cases to board

198. Whenever any seaman or apprentice dies in the United Kingdom, and is at the time of his death entitled to nome to be paid in certain claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping

master

master at the port where the seaman or apprentice was discharged or was to have been discharged, or to the board of trade, as it directs.

- 199. If the money and effects of any deceased seaman or it less than apprentice paid, delivered, or remitted to the board of trade \$50, miges and property of or its agents, including the monies received for any part of deceased seamen may be the said effects which have been sold either before delivery to paid over the board of trade or by its direction, do not exceed in value bate or admintthe sum of fifty pounds, then, subject to the provisions here
  stration to the persons inafter contained, and to all such deductions for expenses in-entitled. curred in respect of the seaman or apprentice or of his said money and effects as the said board thinks proper to allow, the said board may, if it thinks fit so to do, pay and deliver the said money and effects either to any claiments who can prove themselves to the satisfaction of the said board either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall thereby be discharged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained and to deduction for expenses, the board of trade shall pay and deliver the same to the legal personal representatives of the deceased.

200. In cases where the deceased seaman or apprentice Mode of pay-has left a will, the board of trade shall have the following wills made by powers; (that is to say,)

- (1.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master, or first, or only mate of the ship, and is attested by such master or
- (2.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage, who claims

to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some British consular offieer, or some officer of customs, and is attested by such witnesses:

Whenever any claim made under a will is rejected by the board of trade, on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Provision for

201. The following rules shall be observed with respect to payment of payment of creditors of deceased seamen and apprentices; (that is to for preventing say,) fraudulent

- (1.) No such creditor shall be entitled to claim from the board of trade the wages or effects of any such seaman or apprentice, or any part thereof, by virtue of letters of administration taken out by him, or by virtue of confirmation in Scotland as executor creditor:
- (2.) No such creditor shall be entitled, by any means whatever, to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death:
- (3.) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say): every person making a demand as creditor shall deliver to the board of trade an account in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice:
- (4.) If before such demand is made any claim to the wages and effects of the deceased, made by any person interested therein as his widow or child, or under a will, or under the Statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, has been allowed, the board of trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased:

- (5.) If no claim by any such person has been allowed, the board of trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the board of trade of the justice of the demand, either in the whole or in part, the same shrll be allowed and paid accordingly, so far as the assets in the hands of the board of trade will extend for that purpose, and such payment shall discharge the board of trade from all further liability in respect of the money so paid; but if such board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed:
- (6.) In any case whatever the board of trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, the board of trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.
- 202. In cases of wages or effects of deceased seamen or mode of deal-apprentices received by the board of trade, to which no claim claimed wages is substantiated within six years after the receipt thereof by ef deceased such board, it shall be in the absolute discretion of such board, if any subsequent claim is made, either to allow or to refuse the same; and, subject to the provision hereinafter contained, the board of trade shall from time to time pay any monies arising from the unclaimed wages and effects of deceased seamen, which, in the opinion of such board, it is not necessary to retain for the purpose of satisfying claims, into the receipt of Her Majesty's Exchequer, in such manner as the Treasury directs, and such monies shall be carried to and form part of the consolidated fund of the United Kingdom.

203. Every person who, for the purpose of obtaining, Punishment either for himself or for another, any money or effects of any and false reduces deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altered, any of deceased document document

document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labor for any period not exceeding two years, or if summarily prosecuted and convicted, by imprisonment, with or without hard labor, for any period not exceeding six months.

Effects of seanavy.

204. In the case of seamen invalided or discharged from men discharg any of Her Majesty's ships, and sent home in merchant ships, ed from navy any of Her Majesty's ships, and sent home in merchant ships, to be disposed any monies or effects belonging to them which are paid, reant general of mitted, or delivered to the board of trade, or its agents, under the provisions hereinbefore contained, shall be paid over and disposed of in such manner as the accountant general of Her Majesty's navy directs.

(And see Imp. Act 25 & 26 Vict., c. 63, s. 21, post.)

### Leaving Seamen abroad.

On discharge of seamen abroad, by sale of ship or otherwise expense of owner.

**205.** Whenever any British ship is transferred or disposed of at any place out of Her Majesty's Dominions, and any ship seaman or apprentice belonging thereto does not in the preor otherwise, scannar of appropriate consular officer, or, if there is no such certificates of sence of some British consular officer, or, if there is no such be given, and consular officer there, in the presence of one or more respectable British merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any British ship terminates at any place out of Her Majesty's Dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the board of trade as aforesaid, and, in the case of any certificated mate whose certificate he has retained, shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other British ship bound to the port in Her Majesty's Dominions at which he was originally shipped, or to such other port in the United Kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such consular officer or merchants shall indorse upon the agreement of the ship which

the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the consular officer or other person defraying such expenses, or, in case the same has been allowed to the consular officer out of the public monies, as a debt due to Her Majesty either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

206. If the master or any other person belonging to any Forcing sea. British ship wrongfully forces on shore and leaves behind, or men on shore otherwise wilfully and wrongfully leaves behind, in any place, meanor. on shore or at sea, in or out of Her Majesty's Dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return of the ship to the United Kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

207. If the master of any British ship does any of the No seemen to be discharged or left abroad following things; (that is to say,)

- (1.) Discharges any seaman or apprentice in any place situ-functionary.

  ate in any British Possession abroad (and the state of some functionary). sion in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the local government in that behalf, or (in the absence of any such functionary) of the chief officer of customs resident at or near the place where the discharge takes place:
- (2.) Discharges any seaman or apprentice at any place out of Her Majesty's Dominions without previously obtaining the sanction so indorsed as aforesaid of the British consular officer there, or (in his absence) of two respectable merchants resident there:
- (3.) Leaves behind any seaman or apprentice at any place situate in any British Possession abroad, on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof. whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance:

(4.) Leaves behind any seaman or apprentice at any place out of Her Majesty's Dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the *British* consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is:

He shall for each such default be deemed guilty of a misdemeanor; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

Proof of such certificate to be upon the master.

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice, contrary to the provisions of this Act, it shall lie upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

Wages to be paid when seamen are left behind on ground of inability.

209. Every master of any British ship who leaves any seaman or apprentice on shore at any place abroad in or out of Her Majesty's Dominions, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner; and in the case of every bill so drawn, such functionary, merchants or merchant as aforesaid, shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the board of trade requires, upon the agreement of the ship; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 19, post.)

- 210. Every such payment as last aforesaid, whether by Such wages to be treated bill or in money, shall, if made in any British Possession, as money due be made to the seaman or apprentice himself, and, if made subject to payout of Her Majesty's Dominions, to the consular officer, who pense of their shall, if satisfied with the account, indorse on one of the subsistence and passage duplicates thereof a receipt for the amount paid or bill de-home. livered, and shall return the same to the master; and the master shall, within forty-eight hours after his return to his port of destination in the United Kingdom, deliver the same to the shipping master there; and the consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner hereinafter specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the board of trade; and such amount shall, after deducting any expenses which have been duly incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly.
- 211. The Governors, consular officers, and other officers distressed of Her Majesty in foreign countries shall, and in places where seamen found may there are no such Governors or officers, any two resident be relieved and sent home British merchants may, provide for the subsistence of all sea- at the public men or apprentices, being subjects of Her Majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the merchant service or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty bound to any port of the United Kingdom, or to the British Possession to which they belong, (as the case requires,) which is in want of men to make up its complement, and in default of any such

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ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of Her Majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the board of trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum per diem as the board of trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any monies applicable to the relief of distressed British seamen, and granted by Parliament for the purpose, on the production of the bills of the disbursements, with the proper youchers.

(See Imp. Acts 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.)

Masters of British ships compelled to take them.

212. The master of every British ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take on board his ship under the provisions hereinbefore contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place effectually protected against sea and weather; and on the production of a certificate signed by any Governor, consular officer, or merchants, by whose directions any such seaman or apprentice was received on board, specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the registrar general of seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship, and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said monies applicable to the relief of distressed British seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the board of trade from time to time appoints, and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

(See Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.)

213. If any seaman or apprentice belonging to any British Power to sue ship is discharged or left behind at any place out of the advance for United Kingdom, without full compliance on the part of the seamen left master with all the provisions in that behalf in this Act con- abroad. tained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid; and the board of trade may in the name of Her Majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to Her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as hereinbefore is provided in such cases, together with proof of payment by the board of trade or by the paymaster general of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried (as the case may be) at Her Majesty's expense.

(See Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22.)

## Volunteering into the Navy.

214. Any seaman may leave his ship for the purpose of seamen allowforthwith entering into the naval service of Her Majesty, and ed to leave their ships in such leaving his ship shall not be deemed a desertion there-order to enter the navy. from, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into Her Majesty's naval service shall be void, and every master or

owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds.

Clothes to be delivered at once.

Wages to be the seamen.

215. Whenever any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the naval service of Her Majesty and is received into such service, the given to the Queen's officer master shall deliver to him his clothes and effects on board on secount of such ship, and shall pay the proportionate amount of his such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions as follows; (that is to say,) the master of the said ship shall pay the same to the officer authorized to receive such seaman into Her Majesty's service, either in money or by bill drawn upon the owner and payable at sight to the order of the accountant general of the navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said accountant general, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said accountant general or the seaman on whose behalf the same is given may sue thereon or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid, the master fails to deliver his clothes and effects, or to pay his wages as hereinbefore required, he shall, in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds; provided that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said accountant general as aforesaid.

Repayment to owner of ad-vance paid and not duly earned.

**216.** If upon any seaman leaving his ship for the purpose of entering the naval service of Her Majesty, the owner or master of such ship shows to the satisfaction of the admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman has not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the admiralty to pay

to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the naval service of Her Majesty.

217. If, in consequence of any seaman so leaving his ship If new seamon without the consent of the master of owner thereof, it becomes instead of the necessary for the safety and proper navigation of the said original seasing to engage a substitute or substitutes, and if the wages owner may or other remuneration paid to such substitute or substitutes apply for refor subsequent service exceed the wages or remuneration any extra or which would have been payable to the said seaman under his been put to. agreement for similar service, the master or owner of the said ship may apply to the registrar of the high court of admiralty in England for a certificate authorizing the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs.

218. The said registrar shall, upon receiving such appliation as aforesaid, give notice thereof in writing, and of the decided on the decided sum claimed, to the secretary to the admiralty, and shall of repayment proceed to examine the said application, and may call upon how to be certained. the registrar general of seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just he shall give notice of such his opinion in writing under his hand to the person making the said application or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge (as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Accountant general to pay sums when accortained. 219. Every certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the accountant general of the navy; and such accountant general shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same, out of the monies applicable to the naval service of Her Majesty, and granted by Parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said accountant general and Her Majesty from all liability in respect of the monies so paid or of the said application.

Penalty for forgery and false representations in support of such applications. 220. Every person who, in making or supporting any such applications as aforesaid to the registrar of the high court of admiralty, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who, in making or supporting any such application, presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

# Provisions, Health, and Accommodation.

Survey of provisions and water on complaint made.

**221.** Any three or more of the crew of any British ship may complain to any officer in command of any Her Majesty's ships, or any British consular officer, or any shipping master, or any chief officer of customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report

report thereof to the board of trade, and such report, if produced out of the custody of such board or its officers, shall be received in evidence in any legal proceeding.

232. If the officer, to whom any such complaint as last forfeiture for frivolous comaforesaid is made, certifies in such statement as aforesaid plaint. that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

#### 223. In the following cases, (that is to say,)

Allowance for short or bad

- (1.) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);
- (2.) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;
- The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages; (that is to say,)
- (1.) If his allowance is reduced by any quantity not exceeding one third of the quantity specified in the agreement, a sum not exceeding fourpence a day;
- (2.) If his allowance is reduced by more than one third of such quantity, eightpence a day;
- (3.) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it be shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

(Sec. 224 prescribed rules to be observed with respect to medicines, medical stores, and anti-scorbutics, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 4 of that Act.)

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on board.

225. Every master shall keep on board proper weights Masters to 225. Every master shall keep on board proper weights keep weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds.

Board of Trade and local boards may appoint inspectors of medicines, who are to see that ships are properly pro-vided.

226. Any local marine board may, upon being required by the board of trade so to do, appoint and remove a medical inspector of ships for the port, and may fix his remuneration, such remuneration to be subject to the control of the board of trade; and at ports where there are no local marine boards the board of trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the board of trade, and if made at places where there there are no local marine boards, shall be made under the direction of the board of trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the board of trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory, shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of customs a certificate under the hand of such medical inspector or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production

production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds.

(Sec. 227 which provided a penalty for selling or supplying medicines, medical stores, lime or lemon juice, of bad quality, for the use of any ship, is repealed by Imp. Act 30 & 31 Vict., c. 124, sec. 3, and see sec. 5 of that Act.)

- 228. The following rules shall be observed with respect to Expense of medical at expenses attendant on illness and death; (that is to say,)
- (1.) If the master or any seaman or apprentice receives any and of burial hurt or injury in the service of the ship to which he destrain the belongs the expense of providing the processory surgical be defrayed. belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or if shipped in some British Possession to some port in such Possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice:
- subsistence in

- (2.) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence whilst away from the ship, shall be defrayed in like manner:
- (8.) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman or apprentice whilst on board his ship, shall be defrayed in like manner:
- (4.) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.
- 229. If any such expenses in respect of the illness, injury, Expenses, if or hurt of any seaman or apprentice, as are to be borne by sul, to be re-the owner, are paid by any consular officer or other person overable from on healf of Her Majorty, or if any other person is a superior of the person owner. on behalf of Her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice,

whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf, are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being as a debt due to Her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid.

Certain ships

**230.** Every foreign-going ship having one hundred persons cal practition- or upwards on board shall carry on board as part of her complement some person duly authorized by law to practise as physician, surgeon, or apothecary; and in default the owner shall, for every voyage of any such ship made without such medical practitioner, incur a penalty not exceeding one hundred pounds:

> Provided that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

> (Sec. 231 prescribed rules to be observed with respect to accommodation on board, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 9 of that Act.

# Power of Making Complaint.

Seamen to be allowed to go ashore to make com-plaint to a Justice.

232. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or consular officer, or naval officer in command of any of Her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds.

Protection

Protection of Seamen from Imposition.

233. No wages due or accruing to any seaman or apprensale of and tice shall be subject to attachment or arrestment from any wages to be incourt; and every payment of wages to a seaman or appren-valid. tice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

**234.** No debt exceeding in amount five shillings, incurred No debt exby any seaman after he has engaged to serve, shall be recover-coverable till able until the service agreed for is concluded.

**235.** If any person demands or receives from any seaman Penalty for or apprentice to the sea service payment in respect of his overcharges board or lodging in the house of such a person for a longer house keepers. period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds.

236. If any person receives or takes into his possession or Penalty for under his control any monies, documents, or effects of any men's effects. seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by such seaman or apprentice, subject to such deductions as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

237. Every person who, not being in Her Majesty's ser- Persons not to vice, and not being duly authorized by law for the purpose, so en board before the final goes on board any ship about to arrive at the place of her arrival of ship destination, before her actual arrival in dock or at the place mission. of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices or the sheriff of the County in Scotland, and to be dealt with according to the provisions of this Act.

238. If, within twenty-four hours after the arrival of any Penalty for ship at any port in the United Kingdom, any person then boild terms by lodging-being house keepers.

being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

## Discipline.

(See Dom. Act, 38 Vict., c. 29.)

Misconduct endangering ship or life or limb, a misdemeaner.

239. Any master of or any seaman or apprentice belonging to any British ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanour.

Power of Admiralty Courts to remove master.

240. Any court having admiralty jurisdiction in any of Her Majesty's Dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner, or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner, or his agent, or the consignee of the ship, or if there is no owner or agent of the owner of consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Power to investigate cases of alleged ineompetency and misconduct.

241. If the board of trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the board of trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the board of trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate, of a competent legal assistant to be appointed by the board of trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportu-

nity of making a defence either in person or otherwise, and shall, for the purpose of such investigation, have all the powers given by the first part of this Act to inspectors appointed by the board of trade, and may make such order with respect to the costs of such investigation as they may deem just; and shall, on the conclusion of the investigation, make a report upon the case to the board of trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the board of trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the board of trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the board of trade, shall be deemed to be the party having the conduct of the case.

242. The board of trade may suspend or cancel the certimay cancel or ficate (whether of competency or service) of any master or suspend certificates in certif mate in the following cases; (that is to say,)

- (1.) If upon any investigation made in pursuance of the last preceding section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness or tyranny:
- (2.) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as hereinafter mentioned, it is reported that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default:
- (3.) If he is superseded by the order of any admiralty court or of any naval court constituted as hereinafter mentioned:
- (4.) If he is shown to have been convicted of any offence:
- (5.) If upon any investigation made by any court or tribunal authorized or hereafter to be authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any

gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default, and such report is confirmed by the Governor or person administering the government of such posses-

And every master or mate whose certificate is cancelled or suspended shall deliver it to the board of trade or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the board of trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 21 & 23, post.)

Offences of seamen and apprentices and their punishments.

243. Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offences he shall be liable to be punished summarily as follows; (that is to say,)

Desertion:

(1.) For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him:

join, or to pro-ceed to sea, or absence within 24 hours before sailing, and absence without leave :

Neglecting or (2.) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute:

(8.)

(8.) For quitting the ship without leave after her arrival at quitting withher port of delivery and before she is placed in security, fore ship is sehe shall be liable to forfeit out of his wages a sum not cured: exceeding one month's pay:

MERCHANT SHIPPING.

(4.) For wilful disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command, he shall act of disobedience to any lawful command. be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days pay:

(5.) For continued wilful disobedience to lawful commands, continued or continued wilful neglect of duty, he shall be liable to disobedience: imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute:

- (6.) For assaulting any master or mate, he shall be liable to Assault on offiimprisonment for any period not exceeding twelve weeks, cers: with or without hard labour:
- (7.) For combining with any other or others of the crew to combining to disobey lawful commands, or to neglect duty, or to im-disobey: pede the navigation of the ship, or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour:

(8.) For wilfully damaging the ship, or embezzling, or wil-wilful damage fully damaging any of her stores or cargo, he shall be and embession liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour:

(9.) For any act of smuggling of which he is convicted, and Act of smug-whereby loss or damage is occasioned to the master or loss to owner. owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

244. Upon the commission of any of the offences enume-Entry of offences in the last preceding section, an entry thereof shall be made in offences. made in the official log book, and shall be signed by the stall og, and to be read over or master and also by the mate or one of the crew; and the a copy given to offender, if still in the ship, shall before the next subsequent and his reply, arrival if any, to be also entered.

'arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of subject to penalties for breach of discipline.

**245.** Every seafaring person whom the master of any ship ships are com- is, under the authority of this Act or of any other Act of Parrepelled to con-repelled to con-vey and per-sons going in person who goes to sea in any ship without the consent of the leave, to be master or owner or other person entitled to give such consent, master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or ownrant.

246. Whenever, either at the commencement or during er may appre-head deserters the progress of any voyage, any seaman or apprentice neg-without war- lects or refuses to join or deserts from or refuses to proceed lects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, in any place in Her Majesty's Dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of Her Majesty's Dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made, shall incur a penalty not exceeding twenty pounds:

pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

247. Whenever any seaman or apprentice is brought be- Deserters may fore any court on the ground of his having neglected or re-be sent on board in lieu fused to join or to proceed to sea in any ship in which he is of being imengaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

248. If any seaman or apprentice is imprisoned on the seamen imground of his having neglected or refused to join or to proceed desertion or to sea in any ship in which he is engaged to serve, or of breach of discipline may be having deserted or otherwise absented himself therefrom sent on board before termiwithout leave, or of his having committed any other breach nation of senof discipline, and if during such imprisonment and before his tence. engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

249. In all cases of desertion from any ship in any place Entries and abroad the master shall produce the entry of such desertion desertion in the official log book to the person or persons hereby re-sbroad to be quired to indorse on the agreement a certificate of such de-home, and admitted in evisertion; and such person or persons shall thereupon make dence. and certify a copy of such entry and also a copy of the said certificate of desertion; and if such person is a public functionary he shall, and in other cases the said master shall forthwith transmit such copies to the registrar general of seamen in England; and the said registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said registrar, shall, in any legal proceeding relating to such desertion, be received as evidence of the entries therein appearing.

Facilities for feiture of Wages.

250. Whenever a question arises whether the wages of proving desertion, so for any seaman or apprentice are forfeited for desertion, it shall sentences for the sentence are forfeiture to show be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have desertea, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the United Kingdom and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for his leaving his ship.

Costs of pro-curing impriducted from Wages.

251. Whenever in any proceeding relating to seamen's somment may wages it is shown that any seaman or apprentice has in the to the extent course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment

Amount of forwhen seamen contract for the voyage.

252. Whenever any seaman contracts for wages by the fetture how to be ascertained voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

253. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and subject to such reimbursement the same shall be paid into the receipt of Her Majesty's

Majesty's exchequer in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

254. Any question concerning the forfeiture of or deduc-questions of tions from the wages of any seaman or apprentice may be may be decid-determined in any proceeding lawfully instituted with respect of unsuits for wages. to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

255. If any seaman, on or before being engaged, wilfully renalty for and fraudulently makes a false statement of the name of his ment as to last last ship or last alleged ship, or wilfully and fraudulently ship or name. makes a false statement of his own name, he shall incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

256. Whenever any seaman commits an act of miscon- Fines to be deduct for which his agreement imposes a fine, and which it is ducted from intended to punish by enforcing such fine, an entry thereof paid to shipshall be made in the official log book, and a copy of such ping master. entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged in the United Kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship, to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home trade ship, to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the United Kingdom, any such offender as aforesaid enters into any of Her Majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which

he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharge 1, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship to the United Kingdom the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping master before whom the crew is discharged, and, in the case of home trade ships, to the shipping master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct, for which any such fine as aforesaid has been inflicted and paid, shall be otherwise punished under the provisions of this

Penalty for bouring ueserters.

257. Every person who, by any means whatever, perentioing to de-entioing to de-sert, and har- suades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for ob-

258. Any person who secretes himself and goes to sea in taining pas-sage surrepti any ship without the consent of either the owner, consignee, tiously. or master. or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding four weeks.

On change of SUCCESSOT.

259. If during the progress of a voyage the master is masters, doonments hereby superseded or for any other reason quits the ship and is sucrequired to be could in the command by some other person, he shall deliver handed over to ceeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall, immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

Naval

### Naval Courts on the High Sea and abroad.

260. Any officer in command of any ship of Her Majesty Naval Courts on any foreign station, or, in the absence of such officer, any may be sumconsular officer, may summon a court, to be termed a "Naval hearing com-

- (1.) Whenever a complaint, which appears to such officer to require immediate investigation, is made to by the master of any Desired. tificated mate, or by one or more of the seamen belonging to any such ship:
- (2.) Whenever the interest of the owner of any British ship or of the cargo of any such ship appears to such officer to require it:
- (3.) Whenever any British ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad, arrives at such place.
- 261. Every such naval court as aforesaid shall consist of Constitution of such Courts. not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of British merchant ships, or British merchants; and such court may include the naval or consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or consular officer, who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court.

- 262. Every such naval court shall hear and investigate General functhe complaint brought before it, or the cause of the wreck or tions and mode of action abandonment, (as the case may be,) and may for that pur- of such Courts. pose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence.
- 263. Every such naval court may, after hearing the case, power of such exercise the following powers; (that is to say,)

To supersede the master:

(1.) It may, if unanimous that the safety of the ship or crew, or the interest of the owner, absolutely requires it, supersede the master, and may appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place:

To discharge a (2.) It may discharge any seaman from his ship:

To forfeit wages:

- (3.) It may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of Her Majesty's exchequer in the same manner as other penalties and forfeitures under this Act:
- To decide disputes as to wages, &co.:

  To may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings:
- To direct costs (5.) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned:
- To send home (6.) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to British consular officers:
- To order payment of costs, (7.) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any cost or compensation so ordered shall be paid by such person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from his wages:

And all orders duly made by such court under the powers hereby given to it shall in any subsequent legal proceedings be deemed conclusive as to the rights of the parties.

(Further powers are given to "Naval Courts" by Imp. Act, 18 & 19 Vict., c. 91, s. 18.)

Orders to be entered in efficial log.

264. All orders made by any such naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before it belong, and shall be signed by the President of the court.

265.

265. Every such naval court shall make a report to the Report to be made of proboard of trade, containing the following particulars; (that is coedings of to say,)

- (1.) A statement of the proceedings, with the order made by the court, and a report of the evidence:
- (2.) An account of the wages of any seaman or apprentice who is discharged from his ship by such court:
- (3.) If summoned in order to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of such wreck or abandonment with such remarks on the conduct of the master and crew as the circumstances require:

And every such report shall be signed by the president of the court; and every document purporting to be such a report and to be so signed as aforesaid shall, if produced out of the custody of some officer of the board of trade, be deemed to be such report, unless the contrary is proved, and shall be received in evidence, subject to all just exceptions.

266. Any person who wilfully and without due cause pre-Ponatty for vents or obstructs the making of any such complaint as last complaint or aforesaid, or the conduct of any case or investigation by any obstructing investigation. naval court, shall for each such offence incur a penalty not exceeding fifty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding twelve weeks.

Crimes committed on the High Seas and abroad.

267. All offences against property or person committed in Offences committed by Brior at any place either ashore or afloat out of Her Majesty's tish seamen at Dominions by any master, seaman, or apprentice who at the to be within time when the offence is committed is or within three months admiralty previously has been employed in any British ship shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if such offences had been committed within the jurisdiction of the Admiralty of England; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of England.

268. The following rules shall be observed with respect to Conveyance of offences committed on the high seas or abroad; (that is to witnesses to United Kingsay,)

dom or some British Possession.

- (1.) Whenever any complaint is made to any British consular officer of any of the offences mentioned in the last preceding section, or of any offences on the high seas having been committed by any master, seaman, or apprentice belonging to any British ship, such consular officer may inquire into the case upon oath, and may if the case so requires take any steps in his power for the purpose of placing the offender under necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any British Possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law:
- (2.) For the purpose aforesaid such consular officer may order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such British Possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that such master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage; and such consular officer shall indorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the board of trade requires:
- (3.) Every such master shall, on his ship's arrival in the United Kingdom, or in such British Possession as aforesaid, give every offender so committed to his charge into the custody of some police officer or constable, who shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and such justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas:

And any such master as aforesaid who, when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford such passage and subsistence to him, or who does not deliver any offender committed to his charge into the custody of some police officer or constable as hereinbefore directed, shall for each such offence incur a penalty not exceeding fifty pounds; and the expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such British Possession as aforesaid in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of Her Majesty left in distress in foreign parts.

- **369.** Whenever any case of death happens on board any Inquiry into cause of death foreign-going ship, the shipping master shall on the arrival on board. of such ship at the port where the crew is discharged inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and every such shipping master shall, for the purpose of such inquiry, have the powers hereby given to inspectors appointed by the board of trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the board of trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

270. Whenever in the course of any legal proceedings inbe received in
stituted in any part of Her Majesty's Dominions before any evidence when
judge or magistrate, or before any person authorized by law be produced.
or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then upon due proof, if such proceeding is instituted in the United Kingdom, that such witness cannot be found in that Kingdom, or if in any British Possession, that he cannot be found in the same Possession, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's Dominions, or any British consular officer elsewhere, shall be admissible in evidence subject to the following restrictions; (that is to say),

- (1.) If such deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom:
- (2.) If such a deposition was made in any British Possession, it shall not be admissible in any proceeding instituted in the same British Possession:
- (3.) If the proceeding is criminal it shall not be admissible unless it was made in the presence of the person accused:

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or consular officer, before whom the same is made; and such judge, magistrate, or consular officer shall, when the same is taken in a criminal matter, certify, if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or Ordinance of the Legislature of any Colony, so far as regards such Colony, or to interfere with the power of any Colonial Legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

## Registration of and Returns respecting Seamen.

Establishment of Register Office.

271. There shall be in the port of London an office, to be called the "General Register and Record Office of Seamen," and the board of trade shall have control over the same, and may appoint and from time to time remove a registrar general, and such assistants, clerks and servants as may be necessary, and may from time to time, with the consent of the treasury, regulate their salaries and allowances; and such salaries and allowances, and all other necessary expenses, shall be paid by the treasury out of any monies to be granted by Parliament for that purpose; and the board of trade may direct the business of the register office at any of the outports to be transacted at the shipping office, or, with the consent of the commissioner of customs, at the custom house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of customs, to conduct the same; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the board of trade.

Register of seamen to be kept.

272. The said registrar general of seamen shall, by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act.

Lists to be made for all ships, contain ing certain particulars.

- 273. Every master of every foreign-going ship of which the crew is discharged in the United Kingdom, in whatever part of Her Majesty's Dominions the same is registered, and of every home trade ship, shall make out and sign a list in a form sanctioned by the board of trade, containing the following particulars; (that is to say,)
- (1.) The number and date of the ship's register and her registered tonnage:
- (2.) The length and general nature of the voyage or employployment:

(8.)

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- (3.) The Christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices, their qualities on board, their last ships or other employments, and the dates and places of their joining the ship:
- (4.) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes, and circumstances thereof:
- (5.) The names of any members of the crew who have been maimed or hurt, with the times, places, causes, and circumstances thereof:
- (5.) The wages due to any of the crew who have died, at the time of their respective deaths:
- (7.) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold:
- (8.) The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof:
- (9.) Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents:
- (10.) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.
- within forty-eight hours after the ship's arrival at her final ships to be port of destination in the United Kingdom, or upon the disshipsing charge of the crew, whichever first happens, deliver to the master on arrival. shipping master before whom the crew is discharged such list as hereinbefore required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

**275.** The master or owner of every home trade ship shall, Lists to be within twenty-one days after the thirtieth day of June and delivered by the thirty-first day of December in every year, transmit or deliver to some shipping master in the United Kingdom such list as hereinbefore required for the preceding half year, and

shall in default incur a penalty not exceeding five pounds: and such shipping master shall give to the master or owner a certificate of such transmission or delivery; and no officer of customs shall grant a clearance or transire for any home trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be sent home in case of transfer of ship and in case of loss.

**276.** If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as hereinbefore mentioned, duly made out to the time at which she ceased to be a foreigngoing or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as hereinbefore mentioned duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Shipping mas-ters and other officers to documents to registrar.

Registrar to

277. All shipping masters and officers of customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the registrar general of seamen, to be by him recorded and preserved; and the permit inspection, to produce riginals, by the board of trade, or without payment of any fee if the copies board of trade so directs, allow any person to inspect the same; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential, shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Officers of make returns of ships to registrar.

**278.** The collector or comptroller of customs at every port in the United Kingdom shall, on or before the first day of February and the first day of August in every year, transmit to the registrar general of seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

**279.** The following rules shall be observed with respect to Agreements, the delivery of documents to British consular officers; (that indentures, and assignments, on arrival at a foreign root to be

- (1.) Whenever any ship, in whatever part of Her Majesty's the consultant pominions the same is registered, (except ships whose with the officery with the consultant part of the majesty's the consultant properties of the majesty of the majesty of the majesty of the consultant properties of the majesty business for the time being is to carry passengers,) ar-cors of customs. rives at any foreign port where there is a British consular officer, or at any port in any British Possession abroad, and remains thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver to such consular officer, or to the chief officer of customs, (as the case may be,) the agreement with the crew, and also all indentures and assignments of apprenticeships, or, in the case of a ship belonging to a British Possession, such of the said documents as such ship is provided with:
- (2.) Such officer shall keep such documents during the ship's stay in such port, and, in cases where any indorsements upon the agreement are hereby required. shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate endorsed on the agreement, stating when the same were respectively delivered and returned:
- (3.) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement with the fullest information he can collect regarding such neglect or transgression, to the registrar general of seamen:

And if any master fails to deliver any such document as aforesaid he shall for every such default incur a penalty not exceeding twenty pounds; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the consular officer or officer of customs hereinbefore required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

# Official Logs.

280. The board of trade shall sanction forms of official official logs log books, which may be different for different classes of to be kept in forms sancships, so that each such form contains blanks for the entries board of trade. hereinafter required; and an official log of every ship (except ships employed exclusively in trading between ports on the coasts of the United Kingdom) shall be kept in the appropriate sanctioned form; and such official log may, at the discretion

discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in offi-

282. Every master of a ship, for which an official log book is hereby required, shall make or cause to be made therein entries of the following matters; (that is to say,)

Convictions.

(1.) Every legal conviction of any member of his crew, and the punishment inflicted:

Offences.

(2.) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as hereinbefore required.

# (See Sec. 244, ante.)

Punishments. (3.) Every offence for which punishment is inflicted on board, and the punishment inflicted:

Conduct, &c., (4.) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

Illnesses and injuries.

(5.) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any:

Deaths.

(6.) Every case of death happening on board, and of the cause thereof:

Births.

(7.) Every birth happening on board, with the sex of the infant and the names of the parents:

Marriages.

(8.) Every marriage taking place on board, with the names and ages of the parties:

Quitting ship. (9.) The name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof:

(10.)

- (10.) The amount of wages due to any seaman who enters wages of men Her Majesty's service during the voyage:
- (11.) The wages due to any seaman or apprentice who dies wages of during the voyage, and the gross amount of all deduc-men.

  tions to be made therefrom:
- (12.) The sale of effects of any seaman or apprentice who sale or dedies during the voyage, including a statement of each effects.

  article sold, and of the sum received for it:
- (13.) Every collision with any other ship, and the circum-collisions. stances under which the same occurred.
- 283. The entries hereby required to be made in official Entries how to log books shall be signed as follows; that is to say, every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master, and by the seaman or by the officer authorized to receive the seaman into such service.
- 284. The following offences in respect of official log books renattes in shall be punishable as hereinafter mentioned; (that is to respect of official logs. say,)
- (1.) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds:
- (2.) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding thirty pounds:
- (3.) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

285.

Entries in official logs

285. All entries made in any official log book as hereinto be received before directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.

Official logs to be delivered to shipping master.

286. In the case of foreign-going ships the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage; and the master or owner of every home trade ship, not exclusively employed in trading between ports on the coasts in the United Kingdom, shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping master in the United Kingdom the official log book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew hereinbefore mentioned.

Official logs to be sent home in case of transfer of ship, and in case of loss.

287. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home-trade ship, the master or owner thereof shall if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time at which she ceased to be a foreigngoing or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

#### East Indies and Colonies.

**Provisions** of Act, as applied by East Indian and Colonial Governments to their own ships, may be enforced throughout the Empire.

288. If the Governor-General of India in Council or the respective legislative authorities in any British Possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied.

plied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted, throughout Her Majesty's Dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed.

289. Every Act, Ordinance, or other form of law to be East Indian passed or promulgated by the Governor-General of India in Acts to be Council, or by any other legislative authority, in pursuance subject to disable to this Act, shall respectively be subject to the same rights of require sanction as in other disable wance or repeal, and require the same sanction or cases. other acts and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other Act, Ordinance, or other form of law passed by such Governor-General in Council or other legislative authority respectively.

290. If in any matter relating to any ship or to any per-conflict of son belonging to any ship there appears to be conflict of laws, laws. then, if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship, the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

#### PART IV.

## SAFETY AND PREVENTION OF ACCIDENTS.

# Application.

291. The fourth part of this Act shall apply to all British Application of Part IV. of ships; and all foreign steam ships carrying passengers be- act. tween places in the United Kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steam ships are subject.

(Sec. 292 prescribes certain rules with respect to boats and life-buoys to be carried by certain ships proceeding to sea from any place in the United Kingdom.

(Sec. 293 provides penalties in case of masters or owners of such ships neglecting to provide boats and life-buoys.)

(Sec.

(Sec. 294 provides that officers of customs should not clear ships not complying with the above provisions.)

MERCHANT SHIPPING.

(Secs. 295-299 rescribe rules for the use of lights and fogsignals, and the meeting and passing of ships, but this subject so far as relates to the navigation of Canadian waters is governed by Dom. Act, 31 Vict., c. 58, and see Dom. Act, 32 & 33 Vict., c. 22, s. 53.)

# Build and Equipment of Steam Ships.

(Sec. 300 prescribed certain rules, requiring the steamers therein mentioned to be divided by water-tight partitions, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

Equipment of steam ships. **301.** Steam ships shall be provided as follows: (that is to say,)

(1.) Every steam ship of which a survey is hereby required Safety valve. shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve:

Comvesses to be adjusted. (2.) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time; such adjustment, in the case of ships surveyed as hereinafter mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the board of trade:

Fire hose. (3.) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship and capable of being connected with the engines of the ship:

Signals (4.) Every sea-going steam ship employed to carry passengers shall be provided with the following means of making signals of distress; (that is to say,) twelve blue lights or twelve port fires, and one cannon with ammunition for at least twelve charges, or, in the discretion of the master or owner of such ship, with such other means of making signals (if any) as may have previously been approved by the board of trade:

Shelter for (5.) Every home trade steam ship employed to carry passendeck passergers by sea shall be provided with such shelter for the gers. protection of deck passengers (if any) as the board of trade,

trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require.

And if any steam ship as aforesaid plies or goes to sea from any port in the United Kingdom without being so provided as hereinbefore required, then, for each default in any of the above requisites, the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

302. If any person places an undue weight on the safety Penalty for valve of any steam ship, or, in the case of steam ships sur- weight on veyed as hereinafter mentioned, increases such weight beyond safety valve. the limits fixed by such engineer surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

(See Dom. Acts relating to steamboats and their inspection.)

(Secs. 303-321 relate to the survey in the United Kingdom of steam ships carrying passengers to and from and between places in the United Kingdom. See Dom. Acts respecting steamboats and their inspection.)

Misconduct by Passengers in Steamers.

(Secs. 322 & 323 defined certain offences by passengers and prescribed penalties therefor, but are repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2, and see Secs. 35-38 of that Act. See also Dom. Acts on this subject.)

394. Every person who, having committed any of the Penalty on offences mentioned in the two last preceding sections or either ing to give of them, refuses on application of the master of the ship or and address of any other person in the employ of the owner thereof to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner.

325. The master of any home trade passenger steam ship Power toremay refuse to receive on board thereof any person who by passengers reason of drunkenness or otherwise is in such a state, or or misconduct misconducts himself in such a manner, as to cause annoyance themselves. to other passengers on board, or if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid. Accidents.

#### Accidents.

Accidents to steam ships to be reported to board of trade.

any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the board of trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do he shall for such offence incur a penalty not exceeding fifty pounds.

(Sec. 327 required notice to be given of the apprehended loss of any steam ship and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see sec. 22 of that Act.)

Collisions to be entered in official log 328. In every case of collision, in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

(Sec. 329 related to the carrying of dangerous goods and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see ss. 23-28 of that Act.)

#### PART V.

#### PILOTAGE.

(Secs. 330-388 inclusive form the fifth part of the Act and related to pilotage. The application of this part of the Act is limited to the United Kingdom by sec. 330.)

#### PART VI.

#### LIGHTHOUSES.

(This part (secs. 389—416 inclusive) relate only to light-houses in the United Kingdom and the adjacent islands and seas and in Heligoland and Gibraltar.)

PART

### PART VII.

#### MERCANTILE MARINE FUND.

(Part VII. (Secs. 417-431 inclusive) has no application to this Colony.)

#### PART VIII.

## WRECKS, CASUALTIES, AND SALVAGE.

(Secs. 432-501 form Part VIII. and all these secs. except the following relate only to wrecks and casualties on or near the coasts of the United Kingdom and to salvage in the United Kingdom and the adjacent islands or have no application to inland waters.)

## Salvage by Her Majesty's Ships.

484. In cases where salvage services are rendered by any No claim for ship belonging to Her Majesty or by the commander or crew vices to be thereof, no claim shall be made or allowed for any loss, spect of loss of the commander or crew vices to be thereof, no claim shall be made or allowed for any loss, spect of loss of the commander or crew vices to be the crew vices to be the commander or crew vices to be the commander or crew vices to be the crew damage, or risk thereby caused to such ship, or to the stores, risk of Her tackle, or furniture thereof, or for the use of any stores or majesty's ships other articles belonging to Harris and Harr other articles belonging to Her Majesty supplied in order to effect such services, or for any other expense or loss sustained by Her Majesty by reason of such services.

485. No claim whatever on account of any salvage ser- claims for vices rendered to any ship or cargo or to any appurtenances Majesty's office of any ship by the commander or crew or part of the crew of cers not to be any of Her Majesty's ships shall be finally adjudicated upon without conunless the consent of the admiralty has first been obtained, miralty. such consent to be signified by writing under the hand of the secretary to the admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed and he shall pay all the costs of such proceedings; provided that any document purporting to give such consent and to be signed by the secretary to the admiralty shall be prima facie evidence of such consent having been given.

486. Whenever services for which salvage is claimed are steps to be rendered to any ship or cargo, or to any part of any ship or salvage sercargo, or to any appurtenances of any ship, at any place out vices have been rendered of the United Kingdom and the four seas adjoining thereto, by Her Majos-

by the commander or crew or part of the crew of any of Her Majesty's ships, the property alleged to be salved shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a consular officer or a vice-admiralty court; and within twenty-four hours after arriving at such port the said salvor and the master or other person in charge of the property alleged to be salved shall each deliver to the consular officer or vice-admiralty judge there a statement verified on oath, specifying, so far as they respectively can, and so far as the particulars required apply to the case,

- (1.) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the the services were rendered for which salvage is claimed:
- (2.) The nature and duration of the services rendered:

And the salvor shall add to his statement,

- (3.) The proportion of the value of the said ship, cargo, and property, and of the freight which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:
- (4.) Any other circumstances he thinks relevant to the said claim:

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

- (8.) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale (if any) affecting the same, and the names, and places of business of the owners and incumbrancers:
- (4.) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on:
- (5.) A general account of the quantity and nature of the cargo at the time the salvage services were rendered:
- (6.) The name and place of business or residence of the owner of such cargo and of the consignee thereof:

(7.)

- (7.) The values at which the said master estimates the said ship, cargo, and property, and the freight respectively, or, if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest:
- (8.) The amounts which the master thinks should be paid as salvage for the services rendered:
- (9.) An accurate list of the property saved, in cases where the ship is not saved:
- (10.) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid:
- (11. The number, capacities, and condition of the crew of the said ship at the time the said services were rendered:
- (12.) Any other circumstances he thinks relevant to the matters in question:
- (13.) A statement of his willingness to execute a bond, in the form in the table marked W. in the schedule hereto, in such amount as the said consular officer or vice-admiralty judge may fix.
- 487. The said consular officer or judge, as the case may Consular office, shall, within four days after receiving the aforesaid cor or judge to fix amount statements, fix the amount to be inserted in the said bond at for which a such sum as he thinks sufficient to answer the demand for given. the salvage services rendered; but such sum shall not exceed one-half of the value which in his estimation the said ship, freight, and cargo, or any parts thereof in respect of which salvage is claimed, are worth; and the said consular officer or judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed ex parte, but he shall in no case under this Act require the cargo to be unladen; and the said consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

488. The said consular officer or judge shall send notice on master of the sum which he has so fixed as aforesaid to the said bond, the right salvor and the said master; and upon such master executing of detention to cease. a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall attest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease.

Provisions for additional security in the owned by persons resi-dent out of Her Majesty's Dominions.

**489.** If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in Her Majesty's Dominions, the right of the salvor to detain or retain possession thereof shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or judge considers sufficient for the purpose, and places the same in the possession or custody of the said officer or judge, or if the salvor so desires, in the possession or custody of the said officer or judge jointly with any other person whom the said salvor appoints for the purpose.

Doggments to be sent to England.

490. The said consular officer or judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the high court of admiralty of England, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any vice-admiralty court, to such court.

Whom the bond shall bind.

491. The said bond shall bind the respective owners of the said ship, freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Court in which it is to be adjudicated on.

492. The said bond shall be adjudicated on and enforced by the high court of admiralty in *England*, or if the said salvor and master at the time of the execution of the said bond agree upon any vice-admiralty court, then by such vice-admiralty court; and any such vice-admiralty court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said high court of admiralty now has or at any time may have, in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said consular officer or vice-admiralty judge or of such officer or judge jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs.

Power of high

493. The said high court of admiralty shall have power court of admiralty to en- to enforce any bond given in pursuance of this Act in any force bonds. vice-admiralty court in any part of Her Majesty's Dominions; and all courts in Scotland, Ireland, and the islands of Jersey, Guernsey, Alderney, Sark, and Man exercising admiralty jurisdiction shall, upon application, aid and assist the high court of admiralty in enforcing the said bonds.

- 494. Any such salvor as aforesaid of any ship, cargo or saving clause. property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for.
- 495. All bonds, statements, agreements, and other docu- Documents ments made or executed in pursuance of the eighth part of free from duty. this Act shall, if so made or executed out of the United Kingdom, be exempt from stamp duty.

496. Every person who, in any proceeding under provi-Punishment sions contained in the eighth part of this Act relating to false represensalvage by Her Majesty's ships, forges, assists in forging, or tations. procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

# Salvage, General.

497. Whenever services for which salvage is claimed are voluntary rendered either by the commander or crew or part of the crew agreement may be made of any of Her Majesty's ships, or of any other ship, and the which shall salvor voluntarily agrees to abandon his lien upon the ship, effect as the cargo, and property alleged to be salved, upon the master or mentioned. other person in charge thereof entering into a written agreement attested by two witnesses to abide the decision of the said high court of admiralty or of any vice-admiralty court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being. and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same manner as the bonds provided

for by the eighth part of this Act, in the case of detention for salvage services rendered by Her Majesty's ships; and upon such agreement being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Powers for courts having apportion sal-

498. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingjurisdiction to dom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then if any delay or dispute arises as to the apportionment thereof, any court having admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

> (Secs. 498-501 relate only to the United Kingdom. wreck and salvage within the limits of Canada, see Dom. Act, 36 Vict., c. 55.)

#### PART IX.

## LIABILITY OF SHIPOWNERS.

## Application.

502. The ninth part of this Act shall apply to the whole Application of Part IX of of Her Majesty's Dominions.

## Limitation of Liability.

- 503. No owner of any sea-going ship or share therein owner not shall be liable to make good any loss or damage that may spect of certain happen without his actual fault or privity of or to any of the articles. following things, (that is to say,)
- (1.) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship.
- (2.) Of or to any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship, by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value of such articles,

To any extent whatever.

(Sec. 504 limited the liability of the owner in certain cases, but is repealed by Sec. 2 of Imp. Act, 25 & 26 Vict., c. 63, and other provision on the same subject is made by Sec. 54 of that Act.)

(Sec. 505 provided that for the purposes of the ninth part of this Act, the freight should be deemed to include the value of the carriage of any goods or merchandise belonging to the owners of the ship, passage money, and also the hire due or to grow due under or by virtue of any contract, except only such hire, in the case of a ship hired for time, as might not begin to be earned until the expiration of six months after such loss or damage, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

**506.** The owner of every sea-going ship or share therein Provision for shall be liable in respect of every such loss of life, personal separate injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss. injury, or damage had arisen.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 56.)

# MERCHANT SHIPPING.

Mode of Procedure.

(Secs. 507-513 inclusive regulate the mode of procedure in such cases in the United Kingdom.)

Proceedings

514. In cases where any liability has been or is alleged to in case of several claims have been incurred by any owner in respect of loss of life, being made on personal injury, or loss of or damage to ships, boats, or goods, owner of ship. and several claims are made or apprehended in respect of such liability, then, subject to the right hereinbefore given to the board of trade of recovering damages in the United Kingdom in respect of loss of life or personal injury, it shall be lawful in England or Ireland for the high court of chancery, and in Scotland for the court of session, and in any British Possession for any competent court to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject matter and any proceeding entertained by such court of chancery or court of session, or other competent court, may be conducted in such manner and subject to such regulations as to making any person interested parties to the same, and as to the exclusion of any claimans who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just.

Money paid for damage how to be accounted for between part owners.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

## Saving Clause.

Saving clause

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman; or

To extend to any British ship not being a recognized British ship within the meaning of this Act.

#### PART X.

#### LEGAL PROCEDURE.

## Application.

517. The tenth part of this Act shall in all cases, where Application no particular country is mentioned, apply to the whole of the Act.

Her Majesty's Dominions.

## Legal Procedure (General.)

(See Dom. Act, 38 Vict., c. 29.)

518. In all places within Her Majesty's Dominions, ex-runishment of cept Scotland, the offences hereafter mentioned shall be pun-recovery of ished and penalties recovered in manner following; (that is penalties. to say,)

- (1.) Every offence declared by this Act to be a misdemeanour shall be punishable by fine or imprisonment, with or without hard labour; and the court before which such offence is tried may in England make the same allowances and order payment of the same costs and expenses as if such misdemeanour had been enumerated in the Act passed in the seventh year of His late Majesty King George the Fourth, chapter sixty-four, or any other Act 7G 4, c. 64. that may be passed for the like purpose; and may in any other part of Her Majesty's Dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanour under any existing Act or Ordinance, or as may be payable or allowable under any Act or law for the time being in force therein:
- (2.) Every offence declared by this Act to be a misdemeanour shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanour:

(Sub-Secs. 3 & 4 applied only to proceedings in England and Ireland.)

(5.) All offences under this Act shall in any British Possession be punishable by any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates,

trates, as may from time to time be determined by any Act or Ordinance duly made in such Possession in such manner as Acts and Ordinances in such Possession are required to be made in order to have the form of law.

Stipendiary magistrate to have same power as two justices. 519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorized to do.

Offence where deemed to have been committed.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction over ships lying off the coasts. 521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice of the peace, or magistrate, shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice or magistrate.

Service to be good if made personally, or on board ship.

522. Service of any summons or other matter in any legal paoceeding under this Act shall be good service, if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong with the person being or appearing to be in command or charge of such ship.

Sums ordered to be paid leviable by distress on ship. 523. In all cases where any court, justice or justices of the peace, or other magistrate, has or have the power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or pointing and sale of the said ship, her tackle, furniture and apparel.

524. Any court, justice, or magistrate imposing any Application of penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any British Possession shall be paid over into the public treasury of such Possession, and form part of the public revenue thereof.

525. The time for instituting summary proceedings under Limitation of time in sumthis Act shall be limited as follows; (that is to say,)

mary proceed-

- (1.) No conviction for any offence shall be made under this Act in any summary proceedings instituted in the United Kingdom unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to such proceeding happen during such time to be out of the United Kingdom, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same:
- (2.) No conviction for any offence shall be made under this Act in any proceeding instituted in any British Possession, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within such jurisdiction:
- (3.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties happen during such time to be out of the United Kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:
- (4.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any British

British Possession unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction, of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction:

MERCHANT SHIPPING.

And no provision contained in any other Act or Acts, Ordinance or Ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Document proved with-out calling attesting wit-

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**526.** Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

(Sec 527 gives power to Courts of Record or Admiralty in the United Kingdom to arrest any foreign ship which has occasioned damage to property of Her Majesty or of Her subjects.)

(Sec. 528 gives power to certain officers to detain such foreign ships in certain cases without an application to the Court.)

(Sec. 529 provided who should be defendants in such cases.)

(Secs. 530-543 inclusive govern legal procedure in Scotland under this Act.)

### PART XI.

#### MISCELLANEOUS.

(Sec. 544 legalized certain contracts with Lascars or natives of the East Indies to serve as seamen.)

545. Nothing in this Act contained shall be taken to repeal Act not to af-or alter any of the provisions of the "Passengers Act, 1852," Acts, 18 & 10, or of the Act of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of Her present Majesty, viet of the seventeenth year of the seventeenth chapter eighty-four.

(Sec. 546 provided for the granting of sites for sailors' homes in British seaports.)

547. The Legislative Authority of any British Possession Power of coshall have power, by any Act or Ordinance, confirmed by Her tures, traiter Majesty in Council, to repeal, wholly or in part, any provi- Act. sions of this Act relating to ships registered in such Possession; but no such Act or Ordinance shall take effect until such approval has been proclaimed in such Possession or until such time thereafter as may be fixed by such Act or Ordinance for the purpose.

548. All expenses incurred by the commissioners of cus-Expenses intoms in the conduct of suits or prosecutions, or otherwise in commissioners carrying into effect the provisions of this Act, shall be con- of customs to sidered as expenses having reference to the revenue of customs and customs. toms, and shall be paid out of the consolidated customs; but the board of trade may, with the consent of the treasury, repay out of the mercantile marine fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said fund.

# SCHEDULE to which this Act refers.

# FORM A. (See Section 36.)

## CERTIFICATE OF SURVEYOR.

Name of Ship.	British or Foreign Built.	P	ort of Registry.	How propelled.		
			,		by steam by paddle	
Number of Decks. Number of Masts.			Build	Carvel or	Clincher	
Rigging	Nature of, and w	he-	Gallery	Description of.		
G.	ther standing or running Bowsprit. Round, squars, or other description.		Head	Kind of.		
Stern			Framework	Wood or terial.	other ma	
	Measurements.			Feet.	Tenths.	
the aftside of the Main breadth to or	prepart of stem und e head of the stem utside of plank n tonnage deck to c	роф	st			
Closed-in spaces at Space or space Poop Roundhouse	Tonnage. connage deck  conve the tonnage decks  spaces, if any, name	ck,	if any ; viz	No. of	Tons.	
	To	tal.				
Deduction for space	onal Particulars for se required for prop as or 100 ths, or as a	oelli	ng power (sav	То	ns.	
Length of engine	room (if measured)	)	•••••	Feet.	Tenths.	
Engines		•••	•••••	Number of Engines.		
Combined power (	estimated horse-pov	ver)	•••••	No. o. Hor	rses-power	
Register tonnage, Space for proj	(after making dedu	eam	on for ) ers) (a)	· · · · · · · · · · · · · · · · · · ·		
I, the undersigne above-named ship,	d A. B., hereby certify that	o: the	f above particula	having su	rveyed the	

(Signed)\_

FORM

18 .

Dated at

day of

the

# FORM B. (See Section 38.)

# DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER.

		· · · · · · · · · · · · · · · · · · ·			
Name of Ship.	British or Foreign Built.	Port of Registry.	How pr	opelled.	
			and if	or sails, by steam, by paddle	
Number of Decks.		Build	Carvel or	Clincher.	
Number of Masts. Rigging	Nature of, and wh		Description	on of.	
G4	ther standing running Bowspr	it. Head	Kind of		
Stern	Round, square other description		Wood or terial.	other ma-	
	Measurements.		Feet.	Tenths.	
the aftside of Main breadth to o	orepart of stem und the head of the ster utside of plank n tonnage deck to or	rnpost			
Closed-in spaces at Space or space Poop Roundhouse	Tonnage. connage deck cove the tonnage decks between decks	ok, if any; viz	No. of	Tons.	
		tal			
Deduction for space	onal Particulars for se required for pro- us or \$2 ths, or as n	pelling power (say	To	ons.	
T 41			Feet.	Tenths.	
	room (if measured)		Number o	f Engines.	(a) Omit this part if she has no steam power.
Combined power	(estimated horse-po	ower)	No. of Ho	rses-power.	
Register tonnage, Space for proj	(after making dedu pelling power in ste	etion for } amers) (a) }			
I, the undersigners follows:	ed A. B. of	in the County	of	declare	*/f the Decla- rant is a natu-
(1.) I am a natur and have never tak Allegiance to any E	eal born British subj en the Oath of Poreigu State.	or   and have of Allegiar [naming S day of of Allegia and am r place], bei	since I took noe to a For tate], and , take noe to He	t the Oath reign State on the on the Oath or Majesty, inaming within Her	ral-born sub- ject, who has ject, who has taken the Oath of Allegiance to a Forrym State, or a denisen or naturalised sub- ject, and is resi- dent in a coun- try not within Her Mejesty's Dominions, he must declare, in

[Name of Registrar or Justice of the Peace acting in and for

addition, that	I am		
he is a mem-	a decisen by Let- ters of Denization dated the day of	naturalized by Act of Parliament of the United Kingdom of [cite the year of the Reign in which the Act was passed, its Chapter and Title.	nsturalized by an Ordinance of the proper Legislative Authority of [naming British Possession], [cite the year in which the Ordinance was pussed, its Chapter
Inamina the	nions.	place], being a place within	and Title.   Her Majesty's Domi-
dusinese].	And I have since I so became a ) (	aince the passing of the nance taken the Oath of	•
	was built at	iption of which is prefixed to is Foreign-built, and I do not know the time when or the place where she was built, and her Foreign name is	•
	(3.) C. D. of	is the master	of the said ship.
*If the Decin- ration is made by a joint	(4.) I am entitled to be resaid ship.	gistered as owner of	shares in the
owner, add the word "joint" before owner.	other than such person or be Act, 1854, qualified to be o	nowledge and belief, no person odies of persons as are by Th wners of British ships, is ent gal or beneficial in the said shi	e Merchant Shipping
	And I make this solemn of true.	leclaration conscientiously bel	lieving the same to be
	Dated at the day of	(Signed)	
	Made and subscribed by named A. B. in the part me.		

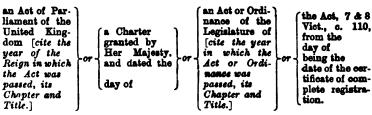
# FORM C. (See Section 39.)

# DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER.

Name of Ship.	British or Foreign Built.	P	ort of Registry.	How p	ropelled.	
•				and if	or sails, by steam, by paddle	
Number of Decks. Number of Masts. Rigging	Nature of, and w		Build	1		
Stern	running Bowsp Round, square, other descriptio	rit. or			other ma-	
	Measurements.			Feet.	Tenths.	
the aftside of the Main breadth to or	orepart of stem un- e head of the stern utside of plank n tonnage deck to	apor	st			
Closed-in spaces a Space or space Poop Roundhouse.	Tonnage. tonnage deck	eck	, if any, viz	No. o	f Tons.	
	T	otal				
Deduction for spa	onal Particulars for se required for pro- ns or 100 ths, or as	pel	ling power (say	To	ons.	
Length of engine	room (if measured	i)	•••••	Feet.	Tenths.	
Engines				Number	of Engines.	(a) Omit this part if she has no steam power.
Combined power	(estimated horse-p	owe	r)	No. of Ho	rses-power.	
	(after making ded pelling power in st			1		

I, the undersigned A. B, of in the County of [Secretary] or [duly appointed public officer], of the Company, declare as follows:

<sup>(1.)</sup> The said Company was incorporated by or by virtue of



(2.) The said Company is subject to the laws

of the United Kingdom, or of the British Possession of and has its principal place of business at

(3.) The ship, the description of which is prefixed to this my Declaration, was built at [naming the country and place] on the is Foreign-built, and was condemned by day I do not know the the Court of [naming , and time when or the οſ Court] on the her Foreign name place where she was built, and her Foat reign name is [These words to be added if the ship is Foreign.

(4.) C. D. of

is the Master of the said ship.

- (5.) The said Company is entitled to be registered as owner of shares in the said ship.
- (6.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

		(Signed)	
Dated at the	day of	18 .	
Made and subscin the present	rfbed by the abore of me	ve-named A. B.	

(Signed) [Name of Registrar.]

# CAP. 104.

# FORM D. (See Section 44.)

### CERTIFICATE OF REGISTRY.

No	=		Date of	Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How p	ropelled.	
			and if	n or sails, by steam, rby paddle v.	
Number of Decks.		Build	. Carvel or	r Clincher.	
Rigging	Nature of, and wh		Descript	ion of.	
	ther standing constraint the standing constraint the standing bowspri	t. Head	Kind of.		
Stern	Round, square, other description		Wood or terial.	other ma-	
	Measurements.		Feet.	Tenths.	
the aftside of the	orepart of stem under the head of the sterngustide of plank n tonnage deck to co	post			
Closed-in spaces a Space or space	Tonnage. tonnage deck bove the tonnage decks	ok, if any, viz	No. o	f Tons.	
Roundhouse	l spaces, if any, nami	ng them			
		al	<u> </u>		1
Deduction for spa	onal Particulars for see required for prop as or 130 ths, or as m	pelling power (say	_	ons.	
Length of engine	room (if measured)		Feet.	Tenths.	(a) Omit this
Engines			Number	of Engines.	part if she has no steam power.
Combined power (	estimated horse-pow	er)	No. of Ho	rses-power.	
Register tennage, Space for pro	(after making dedu pelling power in stea	etion for } amers) (a) }			

I, the undersigned  $A.\ B.$ , Registrar of the Port of certify, that,

, hereby

(1.) The ship, the description of which is prefixed to this my Certificate, has been duly surveyed, and that the above description is true.

(2.) C. D. of

is the master of the said ship.

(3.) The

or -	was condemned by the Court of [naming Court] on the day of at
1	o <b>r</b> .

(4.) The several persons and bodies corporate whose names are hereunder written [or endorsed] are owners of the above ship, in the proportions set opposite their respective names.

	igned)	Registrar.	
	overal ownersabove [or ] mentioned.		r-fourth Shares held th owner.
[Name.]		•	Thirty-two. Sixteen. Eight. Eight.
	. (S	igned)	Registrar.
Dated at the	day of	18 .	

day of

Notice.—A Certificate of Registry granted under The Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

# FORM E. (See Section 55.)

## BILL OF SALE.

No			Date of 1	Registry.					
Name of Ship.	of Ship. British or Foreign Built. Port of Registry.						How pr	ropelled.	
			and if	or sails, by steam, by paddle					
Number of Decks. Number of Masts.		Build	Carvel or	· Clincher.					
Rigging	Nature of, and whe-		Descripti	on of.					
Śtern	ther standing or running Bowsprit. Round, square, or	Head	Kind of.						
Decin	other description.	Framework	Wood or terial.	other ma-					
	Measurements.		Feet.	Tenths.					
Main breadth to o Depth in hold from	e head of the sternpe utside of plank n tonnage deck to ceil ————————————————————————————————————	ling at midships.	No. o	f Tons.					
Closed-in spaces a	tonnage deck bove the tonnage decl es between decks	k, if any, viz							
Roundhouse.	d spaces, if any, namin								
i	Tota	ı							
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 33,ths or as measured)			_	ons.					
Length of engine	room (if measured)	•	Feet.	Tenths.	(a) Omit this				
Engines.'	••••		Number	of Eugines.	has no steam power.				
Combined power (estimated horse-power)			No. of Ho	orses-power.					
	, (after making deduction possible power in stea				) 				

I, A.B. of in the County of , being owner of shares in the ship above particularly described, in consideration of  $\mathcal L$  paid to me by C.D. of in the County of transfer to the said C.D. the said shares.

Alter as neceseary if there be proby more than one owner. Further I, A B., for myself and heirs, covenant with the said C. D. and his \* Omit, if no assigns that I have power to transfer in manner aforesaid the said shares, and Incumbrances, that the same are free from incumbrances\* save as appears by the Registry of the words in the said ship.

the said ship	•	
In witness this	whereof I have hereunt day of	o subscribed my name and affixed my seal 18 .
(L. S.)	(Signe	d)
	the above-named resence of	•
		[insert description and place of residence.

# FORM F. (See Section 56.)

## DECLARATION OF OWNERSHIP BY INDIVIDUAL TRANSFERREE.

No				Date of	Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.		How propelled.		
				and if	n or sails, by steam, by paddle v.	
Number of Decks. Number of Masts.			Build	Carvel or	Clincher.	
Rigging	Nature of, and w		Gallery	Descript	ion of.	
Stern	ther standing running Bowspi Round, square,	rit.	Head	Kind of.		
1500tH	other descriptio		Framework	Wood or terial.	other ma-	
	Measurements.			Feet.	Teuths.	
	ntside of plank n tonnage deck to			No. o	f Tons	•
Tonnage under t	Tonnage. tonnage deck bove the tonnage d	eck.	if any, viz	No. o	f Tons.	
Space or space Poop Roundhouse	s between decks	••••	•••••			
	To	otal				
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 377 ths or 373 ths, or as measured)			Tons.			
Length of engine	room (if measured	n		Feet.	Tenths.	(a) Omit this
Length of engine room (if measured)			Number	of Engines.	part if she has no steam power.	
Combined power (estimated horse-power)			No. of Horses-power.			
	(after making ded celling power in ste					ر ا

I, the undersigned  $A.\ B.$ , of in the County of declare as follows:

<sup>(1.)</sup> I am a natural-born subject of Her Majesty, born at [naming place of listh.] and

*If the Decla- ran, we a natu- ral-born sub- ject, who has taken the Outh of Alleguance to a For-ign State, or a denisen or annuscut sectoub- ject, and in rea- dent in a coun-	and have never taken the Oath of } Allegiance to any Foreign State. }  or  [naming State], and on the day of , taken the Oath of Allegiance to Her Majesty, and am resident at* [naming place], being a place within Her Majesty's Dominions.
try not within	
Her Majorty's	I am
must declare, in addition, that has a mem- "her of some "British fac- "lory, or part- "ner in some	(naturalized by Act) Ordinance of the
"house actually "corrying on "business in the "United King- "dom. or in "some British "Possession"	dated the day of which the Act was passed, its Chapter the year in which the Ordinance was
Inaming the howe and also the place where	
it corries on its business].	since I so became a ) (since the passing of the said Act or Ordi
	denizen, i or ( nance
	and on the day of taken the Oath of Allegiance to He Majesty.
	(2.) To the best of my knowledge and belief, no person or body of persons other than such person or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to an interest whatever, either legal or beneficial in the said ship.
	${\bf A}{\bf n}{\bf d}$ I make this solemn declaration conscientiously believing the same to be true.
	Dated at (Signed) the day of 18 .
	Made and subscribed by the above- named A. B. in the presence of me.
	(Signed) [Name of Registrar or Justice of the Peace acting in and for

### FORM G. (See Section 56.)

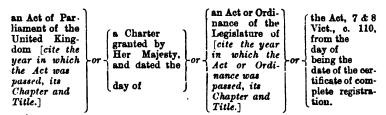
# DECI-ARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS TRANSFERREE.

No		-	Date of	Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How p	ropelled.	
			and it	or sails, by steam, by paddle	
Number of Decks. Number of Masts.		Build	Carvel or	r Clincher.	
	Nature of, and who		Descripti	on of.	
Stern	running Bowspri	t. Head	Kind of.	!	
Sterii	other description	Framework	Wood or terial.	other ma-	
	Measurements.		Feet.	Tenths.	
the aftaide of Main breadth to o	orepart of stem under the head of the ster utside of plank a tonnage deck to ce	npost			
	Tonnage.		No. o	l Tons.	
Closed-in spaces at Space or space Poop Roundhouse	onnage deck ove the tonnage dec as between decks	k, if any; viz	     ·		•
Contract Individual	•	al	<u> </u>		
(a) 1 d d i si			·	ons.	)
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 755ths or 755ths, or as measured)			1	JU8.	
Length of engine	room (if measured)		Feet.	Tenths.	(a) Omit this
Engines			Number	of Engines.	has no steam power.
	(estimated horse-por	No. of Ho	rses-power.		
	(after making deduction of the control of the contr				J

I, the undersigned A. B. of in the County of [Secretary] or [duly appointed public officer], of the Company, declare as follows:

<sup>(1.)</sup> The

(1.) The said Company was incorporated by or by virtue of



(2.) The said Company is subject to the laws

(Signed)

of the United Kingdom, or of the British Possession of

and has its principal place of business at

(3.) The said Company is entitled to be registered as transferree of shares in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

			(Signed)	
Dated at the	day of	18 .	,	
Made and subsc in the presence	ribed by the above of me	ve-named A.	. В.	

\_\_\_\_ [Name of Registrar.]

### FORM H. (See Section 58.)

### DECLARATION BY OWNER TAKING BY TRANSMISSION.

No				Date of	Registry.	
Name of Ship.	British or Foreign Built.	Po	ort of Registry.	How p	ropelled.	
				and if	n or sails, by steam, r by paddle w.	
Number of Decks. Number of Masts.			Build	Carvel o	r Clincher.	
Rigging	Nature of, and wh		Gallery	Descript	ion of.	
	ther standing running Bowspr	it.	Head	Kind of.		
Stern			Framework			
	Measurements.			Feet.	Tenths.	
the aftside of th Main breadth to or	orepart of stem under head of the stern utside of plank n tonnage deck to co	poe	ı <b>t</b>			
Closed-in spaces al Space or space	Tonnage. tonnage deck bove the tonnage deckes between decks	e <b>k,</b> i	if any ; viz	No. c	of Tons.	
Roundhouse	l spaces, if any, nam					
	Tot	tal.				
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 100 ths or 100 ths, or as measured)			. –	ons.		
	room (if measured)			Feet.	Tenths.	(a) Umit this part if she has no steam
Engines			• • • • • • • • • • • • • • • • • • • •	Number	of Engines.	power.
Combined power (estimated horse-power)				No. of Ho	orses-power.	
	(after making dedu pelling power in ste			·		J

I, the undersigned A. B. of as follows:

in the County of

declare (b) Alter ac-cordingly if more than one person makes
the declaration

(1.) I am a natural born British subject, born at [naming place of birth.]

	and have never taken	and have since I took the O Foreign State [naming State	
	the Oath of Allegiance		of Allegiance to He
*If the Decla- rant is a natu- ral-born subject,	to any Foreign State	being a place within Her M	
who has taken the Oath of Alle- giance to a For- eign State, or a denizen or a na-	a denizen by Letters of Denization dated the Day	or    naturalized by Act of     Parliament of the     United Kingdom [cite or     the year in which the     Act was passed, its     Chapter and Title].	onaturalized by an Ordinance of the proper legislative au thority of [naming British Possession [cite the year in which the Ordin ance was passed, it Chapter and Title.]
tion, that "he is "a member of "some British "factory, partner "in some house "actually carry-		ming place], being a place with	oin Her Majesty's Do
	since I so became a de	nizen, or since the passing of	the said Act or Or-
"In the United  "Kingdom, or in  "some British  "Possession,"	and on the Mujesty.	(dilance,	h of Allegiance to He
[naming the house and also	(2.) I declare that		
the place where it curries on its business.]	the person appearing by the register book to be the owner of shares in the ship above described   [dicd at in the County of having first duly made his Will dated	We declare that C. D., the person appearing on the register book to be the owner of shares in the ship above rescribed, was on the day of [duly adjudged a bankrupt] or [declared insolvent], and that we were on the day of appointed Assigness of the said C. D., and we are by Law entitled to be registered as owners of the said shares of the said shares of the said ship in place of the said C. D.	I declare that on the day of I intermarried with and am now the husband of C. D., the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said C. D. became by law vested in me, and that I am entitled to be registered as owner of the said shares in the place of the said C. D.
	(3.) To the lest of mother than such person Act, 1854, qualified to interest whatever, either	ny knowledge and belief, no pers is or bodies of persons as are by I be owners of British ships, is ei er legal or beneficial, in the said s own declaration conscientiously	The Merchant Shipping atitled as owner to any hip.
	be true.	-	Detreating erre series of
	Datal at	(Signed)	
	Dated at the day o	f 18 .	
	in the presence of		
	(Sigued)	———— \ Nume of Regis ————— ( Peace acting in	trar or Justice of the and for

### FORM I. (See Section 66.)

#### FORM OF MORTGAGE.

No				Date of Registry.		
Name of Ship.	British or Foreign Built.	Port of Registry.		How propelled.		
•	•		•	and if	or sails, by steam, by paddle	
Number of Decks. Number of Masts.			Build	Carvel or	Clincher.	
	Nature of, and w		Gallery	Descripti	ion of.	
Stern	ther standing running Bowspr	rit.	Head	Kind of.		
SMIH	Round, square, other description	n.	Framework	Wood or other ma- terial.		
	Measurements.			Feet.	Tenths.	
the aftside of th Main breadth to or	prepart of stem und e head of the stern utside of plank n tonnage deck to c	ро	s‡			
Closed-in spaces al Space or space	Tonnage.  tonnage deck  toove the tonnage decks.	ck,	if any ; viz	No. o	f Tons.	
Roundhouse	spaces, if any, nan					
	To	tal.	· · · · · · · · · · · · · · · · · · ·			
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether faths or paths, or as measured)			Tons.			
Length of engine	room (if measured)	)		Feet.	Tenths.	(a) Omit this
Engines				Number	f Engines.	has no steam power.
Combined power (estimated horse-power)			No. of Ho	rses-power.		
	(after making dedu celling power in ste					J

I, the undersigned A. B. of in the County of in con-as may be sesideration of  $\pounds$  this day lent to me by C. D. of in the censury so as to County of do hereby for myself and my heirs covenant with the balance of acsaid C. D. firstly, that I, or my heirs, executors, or administrators, will pay to counts or otherthe said C. D. the said sum of  $\pounds$  together with interest thereon at the wice, as the case rate

rate of £ by the £100 in the year, on the day of next; and, secondly, that if the said principal sum is not paid on the said day, I, or my heirs, executors, or administrators, will, during such time as the same or such part thereof remains unpaid, pay to the said C. D. interest on the whole or such part thereof as may for the time being remain unpaid at the rate of £ by the £160 in the year, by equal half-yearly payments, on the day of and day of in every year; and for better securing to the said C. D. the repayment in manner aforesaid of the said principal sum and interest, I hereby mortgage to the said C. D. shares, of which I am the owner in the ship above particularly described.

Lastly, I, A. B., for myself and my heirs, covenant with the said C. D. and h s assigns, that I have power to mortgage in manner aforesaid the abovelower to mortgage in manner aforesaid the above
lower to mortgage in mann

In witness whereof I have hereto subscribed my name and affixed my seal, this day of

(L.S.) (Signed)\_\_\_\_\_

Executed by the above-named A. B. in the presence of X. Y.

### FORM K. (See Section 73.)

Transfer of Mortgage to be Endorsed on Original Mortgage.

I, the within mentioned C. D. in consideration of £ paid to me by X. Y. of in the County of to him the benefit of the within written security. In witness	this day hereby transfer
to him the benefit of the within written security. In witness	whereof I have
hereunto subscribed my name and affixed my seal, this the	usy

(L.S.) (Signed)\_\_\_\_\_

Executed by the above-named C.D. in the presence of E.F.

### FORM L. (See Section. 74.)

### DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION.

No	•		•	Date of 1	Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.		How propelled.		
				and if	or sails, by steam, by paddle	
Number of Decks. Number of Masts.		•	Build	Carvel or	Clincher.	
Rigging	Nature of, and w		Gallery	Descripti	on of.	
GA	ther standing running Bowspo	rit.	Head	Kind of.		
Stern	Round, square, other description		Framework	Wood or terial.	other ma-	
	Measurements.			Feet.	Tenths.	
Main breadth to or	e head of the stern utside of plank n tonnage deck to o					
Closed-in spaces a Space or space	Tonnage.  Tonnage under tonnage deck			No. of	Tons.	
Roundhouse.	l spaces, if any, nar					
	Te	otal				
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 10 ths or 10 ths, or as measured)			Tons.			
Length of engine	room (if measured	n		Feet.	Tenths.	(a) Omit this
	•••••			Number	of Engines.	part if she has no steam power.
Combined power	(estimated horse-p	owe	r)	No. of Ho	rses-power.	
Register tonnage, Space for pro	(after making ded pelling power in st	luct	ion for   ers) (a) }			ر ا

I, the undersigned A. B., of declare as follows:

in the County of

I declare

I declare that the person appearing by the register book to We declare that C. be the mortgagee shares in the ship above des-\* Alter accord- cribed\* [died at ing to circum- in the County of having first duly made his Will dated etances. the day of whereby he appointed me Executor, and I proved his said Will on the day of in the Court of ] or [died at in the County of on the day of intestate, and that Letters of Administration of his estate and effects were on

the day of

duly granted to me by the Court of

].

D., the person appearing on the re-I declare that on the day of gister book to be the I intermarried with mortgages of shares in the ship and am now the husabove described\* band of C. D., the perwas on the son appearing on the day of duly adjudged a bankregister book to be the mortgagee of shares in the said ship, and I declare that on such mar-riage the interest of rupt] or [mas duly declared insolvent], 07 and that we were on day of appointed Assignees of the said C. D., and the said C. D. became by law vested in me, we are by Law enand that I am entitled to be registered titled to be registered as mortgagees of the as mortgages of the shares said said shares in place of of the said ship in the said C. D. place of the said C. D.

And I make this solemn declaration conscientiously believing the same to

MERCHANT SHIPPING.

De Mue.	(Signed)
Made and subscribed by the above-named in the presence of me	A. B.,
(Signed)	Registrar or Justice of the Peace.

### FORM M. (See Section 79.)

### CERTIFICATE OF MORTGAGE.

				Date of 1	Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.		How propelled.		
				and if	or sails, by steam, by paddles	
Number of Decks. Number of Masts.	į		1 <b>d</b>		1	
Rigging	ther standing running Bowspr	or it. Hes	lery .d		on of.	
Stern	Round, square other description		mework	Wood or terial.	other ma-	
	Measurements.			Feet.	Tenths.	
	forepart of stem und the head of the ste				1 1	
Main breadth to o	outside of plank m tonnage deck to c			•		
Main breadth to on Depth in hold from Tonnage under Closed-in spaces a Space or space Poop	outside of plank	eiling at	midships.	No. of	f Tons.	
Main breadth to on Depth in hold from Tonnage under Closed-in spaces a Space or space Poop	Tonnage deck to c  Tonnage.  tonnage deck bove the tonnage decks d spaces, if any, nan	eiling at	midships.	No. of	f Tons.	
Main breadth to on Depth in hold from the Closed-in spaces and Poop	Tonnage deck to c  Tonnage.  tonnage deck bove the tonnage decks d spaces, if any, nan	ck, if an	y; viz m		f Tons.	
Main breadth to on Depth in hold from Tonnage under Closed-in spaces a Space or space Poop	Tonnage.  tonnage deck  tonnage deck bove the tonnage deck d spaces, if any, nan  To  ional Particulars for oe required for pro	ck, if an	y; viz m power (say d)	To Foot.	•	(a) Omit this
Main breadth to on Depth in hold from the control of the control o	Tonnage.  Tonnage.  tonnage deck bove the tonnage deck d spaces, if any, nan  To  ional Particulars for one required for pro ths or rooths, or as	ok, if and the tal	midships.  y; viz  m  power (say d)	Feet.	· ons.	(a) Omit this part if she has no steam power.

1									
	ACCOUNT OF TITLE OF SUBSCRIBING OWNERS.								
,	Names of the several subscribing owners.	Account of Mortgages or Certificates of Mortgage or sale granted in respect of shares of subscribing owners.							
ļ	(Name and Description of Owner.)								
Alter accord- ingly it there is only one ap- pointor or one attorney.	(1.) We, the above-mentioned persons, whose names are horeunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above account of title, 'but subject to the several mortgages above mentioned,') hereby appoint A. B. of and C. D. of and each of them, our attornies and attorney jointly or severally in our names or on our behalf to mortgage our ahares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.  (2.) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ and that the rate of interest at which the same is raised shall not exceed £ for every £100 by the year.  (3.) We declare that the power of mortgaging hereby given may be exercised at								
	<b>(L</b> .)	day of S.)	.f						
	(L.)	8.) G.H. 6							
	, and i mentioned owners, are	articulars relating to the to the title of the several a correct; and I further of have executed the certifica-	ship bove- ertify,						
		(Signed)	Registrar.						
		ated under this power must i r as near thereto as circumst							
• If the mort-	The	day of							
page is to cover advances, insert	The suisbles on our	ioned shares in the ship	were this						
" a sum not ca- ceeding L ,"		ed to X. Y. of	, to secure						
or "generalba- lance of ac-	*£	and interest.							

\_\_\_\_\_, Registrar or Consular Officer.

Signed\_\_

### MERCHANT SHIPPING. CAP. 104. 177

# FORM N. (See Section 79.)

### CERTIFICATE OF SALE.

No	<del></del>			Date of 1	Registry.	owners of the ship must be parties to this
Name of Ship.	British or Fereign Built.	P	ort of Registry. How propelled.		opelled.	document.
				and if	or sails, by steam, by paddles	
Number of Decks. Number of Masts.			Build	Carvel or	Clincher.	
Rigging	Nature of, and wh		Gallery	Descripti	on of.	
Stern	ther standing or running Bowsprit. Round, square, or other description.		Head	Kind of.		
Jest II			Framework	Wood or terial.	other ma-	
	Measurements.			Feet.	Tenths.	
the aftside of the Main breadth to or	orepart of stem und e head of the stern utside of plank a tonnage deck to e	pos	st			
Tonnage.  Tonnage under tonnage deck Closed-in spaces above the tonnage deck, if any, viz Space or spaces between decks Poop			No. of	Tons.		
Roundhouse Other inclosed	spaces, if any, nam	ing	them			
	To	tal .				
(a) Additional Particulars for Steamers.  Deduction for space required for propelling power (say whether 155ths or 155ths, or as measured)			To	ons.		
Length of engine	room (if measured)			Feet.	Tenths.	(B) Omit this part if she
Engines	• • • • • • • • • • • • • • • • • • • •			Number	of Engines.	has no steam power.
Combined power (estimated horse-power)			No. of Ho	rses-power.		
	(after making dedu pelling power in ste					,

ACCOUNT OF TITLE TO THE ABOVE-MENTIONED SHIP.								
Names of the owners of the ship above- mentioned.	Number of sixty-fourth shares held by each owner.	Account of Mortgages, or Certificates of Mortgage, or Sale granted in respect of ship.						
(Name.)								

Alter accordingly if only one appointor or one attorney.

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned Account of Title, (but subject to the several mortgages above-mentioned,) hereby appoint A. B. of , and each of them, our attornies and attorney jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for

- (2.) We declare that the ship shall not be sold for a less sum than £
- (3.) We declare that the ship may be sold at

carrying into effect the power hereby given.

(4.) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) E.F. of (L.S.) G.H. of &c.

I, M. N., Rogistrar of , hereby certify, that the above-written particulars relating to the ship , and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

(Signed)	Registrar
----------	-----------

### FORM O. (See Section 83.)

#### FORM OF REVOCATION.

No				Date of 1	Registry.		
Name of Ship.	British or Foreign Built.	Pe	ort of Registry.	How pr	opelled.		
				and if	or sails, by steam, by paddles		
Number of Decks. Number of Masts.			Build	Carvel or	Clincher.		
Rigging	Nature of, and w		Gallery	Descripti	on of.		
•	ther standing running Bowsp	rit.	Head	Kind of.			
Stern	Round, square or other description.				other ma-		
	Measurements.			Feet.	Tenths.		
Tonnage under Closed-in spaces a Space or space	Tonnage deck to tonnage. tonnage deck bove the tonnage deck	eck,	if any ; viz	No. of	Tons.		
Roundhouse.	d spaces, if any, nar						
	T	otal					
Deduction for space	onal Particulars for se required for pro- hs or 100 ths, or as	pel	ling power (say	To	ons.		
Length of engine	room (if measured	a)		Feet.	Tenths.		
	•	•		Number	of Engines		
Engines	• • • • • • • • • • • • • • • • • • • •			1			

(a) Alter ac- cording to cir- cumstances the	We revoke the power	(a) r of mortgaging	owners of the (or selling) the	ship above described, hereby said ship given by us to (b)
words printed		a certificate of r	rorigage (or san	e) astea the
in signor.	In witness when seals, this		eunto subscribe	ed our names and affixed our
(b) Insert names	(I	8 ) 8.)	E. F. of	
of attorneys.	(I	ı. <b>S</b> .)	G. H. of	
	I, M. N., regist		æc. , hereby	
	certify, that the			
	power of revocation	(Signed)	ve appearing.	_Registrar.
		-		-
		TARLE P	(See Section	m 195 \

#### TABLE P. (See Section 125.)

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement of Crews.					3. Discharge of Crev	78.		•
		£	8.	d.		£	8.	d.
In Ships under	60 Tons	0	4	0	In Ships under 60 Tons	0	4	
60 to	100 "	0	7	0	60 to 100 "	0	7	0
100 to	200 "	0 1	L5	0	100 to 200 "		15	0
200 to	300 "	1	0	0	200 to 300 "	1	0	0
300 to	400 "	1	5	0	300 to 400 "	1	5	0
400 to	500 "	1 1	LO	0	400 to 500 "	1	10	0
500 to	600 "	1 1	15	0	500 to 600 "	1	15	0
600 to	700 "	2	0	0	600 to 700 "	2	0	0
700 to	800 "	2	5	0	700 to 800 "	2	5	0
'''''' '800 to	900 "	2 1	10	0	800 to 900 11	2	10	0
900 to	1,000 "	2 1	<b>L</b> 5	0	900 to 1,000 "	2	15	0
Above	1,000 "	8	0	0	Above 1,000 "	8	0	0
And so on for	ships of le	arger	to	n-	And so on for ships of la	arge	r to	m-
nage, adding	for every	100	to	ns	nage, adding for every	100	to	ns
above 1,000, fi					above 1,000, five shillings	i.		
· · · · · -								

2. Engagement of seamen separately. Two shillings for each.

4. Discharge of seamen separately. Two shillings for each.

#### TABLE Q. (See Section 126.)

Sums to be deducted from Wages by way of partial Repayment of Fees in Table P.

1. In respect of Engagement Discharges of Crews, upo Engagement and each Dis	n e	ich
From wages of any mate, purser, engineer,	8.	d.
surgeon, carpen- ter, or steward " all others except	1	6
an others except	_	_

appprentices - -

In respect of Engagements and Discharges of Seamen separate-ly, upon each Engagement and each Discharge.

One shilling.

#### TABLE R. (See Section 193.)

Fees to be charged on Examinations.

	£	s.	d.
For a Certificate as Master	2	0	0
For a Certificate as Mate	., 1	0	0

Number and Dimensions of Boats with which Seagoing Ships are provided.

## TABLE S. (See Section 292.)

	• 1			i									1
			a .:		•	eq.	187	п	988	O 6	цş	88	
	TOTAL NUMBER F BOATS		ļ	<i>'</i>	10	•		~ co				:	
	P B B	ž	Ships.	i		b	;	b	5	3 6	6		1
	TOTAL NUMBER OF BOATS.					- 4		⋪.	4, 0		63		
		.sqi	de Zailise			:::	_	₹.	4 0	2	23		<u>.</u> ].
	8		Depth.	.aI		•		:	:	: :		:	١,
	Ships boat	<b>1</b>	4,440	.34		8		<u>:</u>	≟_	<u>:_</u> :		<u>:</u>	.   `
	50.40	8	Breadth.	.aI		٠:		:	:	: :	:	:	•
	tp.	H		.39		0		÷	<u>:</u> _	: _:	:	_:_	_
	8 2 E	Life Boats.	Length.	Ft.		20	:	:	:	: :	:	<u>:</u> 	
	Corums 3. rried by Sterio not carry is column 2.	н	Number.	Ī		, q		_:	:	: :		:	١.
	5 4 5 6 1			.αI		9	=	9	ہ تو	တ်	4		
	ie n		Depth.	Ft.				~ .	~ ~		~	:	1
	Column 3.  To be carried by Steam Ship which do not carry the boat is column 2.	, si		.al		9 0	;	9	9 0	9	6.2		-
	5 A	Boats.	Breadth.	Ft.		ىد ت			<b>.</b>			:	] i
	ð já	дĭ	Length.	Ft.		22		27 (	777	-2	8	÷	۱ ا
	ુ ક			<u>' 'ख</u>								÷	
			Number.	<u> </u>	_	~ ??		<u>~</u>	<u>ه د د</u>	ויי ו	~	<u> </u>	۱ ا:
	R by by do do 3.		Depth.	.al		0 00		œ	0 0	9 0	6	:	
<b>∞</b>	o the high	98		.3'H		ne		က	ر ان در		6.2	_ <u>:</u>	
COLUMN 2.	Brit Bail	쥘	Breadth.	.al		0						•	١
31	To be carried by Sailing Ships and by Wean Ships, when they do not carry the boats in col 3.	Launobes.	411700.0	.3'4		26 8 26 8		<b>α</b>	_ 4	ي د	20	:_	
ರ	Se preside	Ä	Length.	19		26	· _	<u> </u>	799	18	9	:-	
	E COURTO		Mamber.	<u> </u>				<u></u>	<u> </u>	-	_	:	
	700		- oben-	la.		c oc	,	8	9 4	> :			1
	di		Depth.	'2,Ā		N 21		29 (	20 0	,			
	<b>5</b> 2	Boats.		.al		9 9	,	5	2 6	<del>-</del>		:	١.
	ng ps.	80	Breadth.	.3 Ā	٠,	e ee	,	121	G 14	. :		:	
	T iid	<b>P</b>	Length.	1.1	;	26.6	-	*	.40 .00 .00		_		
	* 1 20 CC		Number.	1							_	•	-
	COLUMN 1. carried by Sailing and Steam Ships.	==:				دن دن در		00.	:0 o	_		<u>.</u>	
	Ste		Depth.	.ul	L								
	E E	ø;		FE.		9 2 9	_	20	70 0	200		<u>69</u>	-
	5 E	Boats.	Breadth.	.aI				_ (	- 4			_	-
	ڲ	Ă		F. 1		18 5	!	20 1	100 Y	::2	::	14:5	-
	Column 1.  To be carried by Sailing Ships and Steam Ships.		Length.	Ft.		ΞΞ		=;	==	14	-	<u> </u>	-
			Number.	<u>L</u>				= :	<del>-</del> -	-	_		
					<b>g</b>	. 8		98 98	200	240	120	9	
		í	, e	<u> </u>	8	22		00 1	<b>.</b>	9			
	a .	3	Ships.	Tons.	1,000 and	upwards 800 to 1000		<b>\$</b> .	<b>3</b> \$		\$	Under	
	GR.	õ	a va	-	9	3,5		200	3 \$	20	8	O	
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	F 22		ي مد				קַ	<u> </u>	800 300	30	200	100	
	ا قِ قِ	Sailing Ships.		l ari			8	੶ਦ`					1
	Registered Tonnage.		ية.	ă	1	f	œ	Ė	0 0				1.
	REG		Ships.	Tong.	1	i	800 and	upwards.	000 to 800 300 to	300		Under	:

roce—in Saling South carrying for dumorf of Coals browns specified, and Scrain South carrying the import of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to aggregate cubic contents of the boat speeified.

Col. 1.

In Sailing Ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the orew may be substituted for those above specified.

In all Steam Ships, two paddlebox boats may be substituted for any two of the boats in Col. 8. In Steam Ships carrying the smaller of the two numbers above specified, one of the boats must be a Launch of the capacity specified in Col. 2.

In Sailing Ships of 200 tons burden and under, not carrying passengers a Dingy may be substituted for the boat in

(TABLE T is a table of the fees to be charged for the survey of passenger steamers in the United Kingdom under Section 314.)
(TABLE U is a table of the rates of pilotage to be demanded and received by qualified pilots in the United Kingdom under Section 333.)
(TABLE V is a table of the fees and remuneration of receivers of wreck in the United Kingdom under Section 455.)

(Table W gives the form of the salvage bond required by Section 486.)

# 18 & 19 Vict., c. 91--1855.

An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1854.

HEREAS it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the British Possessions abroad, and otherwise to amend the Merchant Shipping Act, 1854: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Merchant Shipping Act short Title of Amendment Act, 1855," and shall be taken to be part of the Act. Merchant Shipping Act, 1854, and shall be construed accord- 17 & 18 Vict., ingly.

(Secs. 2-8 inclusive relate to the erection and maintenance of lighthouses on or near the coasts of British Possessions, but do not apply to inland waters. See Dom. Act, 31 Vict, c. 59.)

9. Any person who, in any declaration made in the pre-Registry of sence of or produced to any registrar of shipping, in pursu-Shipe ance of the second part of the Merchant Shipping Act, 1854, PART II. of Merchant or in any documents or other evidence produced to such shipping Act, registrar, wilfully makes, or assists in making or procures to 1884. be made, any false statement concerning the title to or the Penalty on ownership of or the interests existing in any ship, or any tions under share or shares in any ship, or who utters, produces, or chant ship. makes use of any declaration or document containing any ping Act. such false statement, knowing the same to be false, shall be 17 & 18 Vict. o. 104, a. 108. guilty of a misdemeanor.

- 10. Shares in ships registered under the said Merchant Shares in Ship-Shipping Act, 1854, shall be deemed to be included in the ping within word "stock," as defined by the Trustee Act, 1850, and the Act, 1850. provisions of such last-mentioned Act shall be applicable to 18 & 14 Vict., such shares accordingly.
- 11. In any case in which any bill of sale, mortgage, or Forms of In-other instrument for the disposal or transfer of any ship or struments. any share or shares therein or of any interest therein is made of 104, 8, 96. in any form or contains any particulars other than the form

and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the commissioners of Her Majesty's customs.

Delivery of Certificate 17 & 18 Vict., с. 104, в. 90.

12. Upon the transfer of the registry of a ship from one upon Transfer port to another, the certificate of registry required by the of Registry. ninetieth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose, may be delivered up to the registrar of either of such ports.

Exemption of certain ships from having name painted on stern. 17 & 18 Viot..

c. 104, s. 34.

13. The commissioners of customs may, with the consent of the board of trade, exempt any pleasure yacht from the provision contained in the thirty-fourth section of the Merchant Shipping Act, 1854, which requires the name of every ship and the port to which she belongs to be painted on her stern.

Ships meabe measured under Rule I. 17 and 18 Vict.,

14. The owner of any ship which is measured under rule sured under Rule II. may II. contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the commissioners of customs to have the said ship remeac. 104. ss. 21 and 22. sured under rule I. contained in the twenty-first section of the same Act, and the said commissioners may thereupon, and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered

(See Imp. Act, 35 & 36 Vict., c. 73, s. 3, post.)

General Register Books in London.

accordingly.

17 & 18 Vict., c. 104, a. 107.

15. The copy or transcript of the register of any British ship which is kept by the chief registrar of shipping at the custom house in London, or by the registrar general of seamen, under the direction of Her Majesty's commissioners of customs or of the board of trade, shall have the same effect to all intents and purposes as the original register of which the same is a copy or transcript.

Maeters and Seamen. PART III of Merchan;

16. The board of trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and Shipping Act, two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the board of, trade, shall extend to all expenses incurred by any foreign government for the

1854. Extension of Provisions concerning the relief of destitute seamen. 17 & 18 Vict., c 104, ss. 211, 212 aud 213.

purposes aforesaid, and repaid to such government by Her Majesty's Government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as British ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of Her Majesty, which are contained in the said sections of the said Act, and in this section shall extend to such seamen and apprentices, not being subjects of Her Majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged, or left behind from any British ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners, and the country to which they are to be sent, as the board of trade may, under the circumstances, think fit to make and issue.

MERCHANT SHIPPING.

(See Imp. Act, 25 & 26 Vict, c. 63, s. 22, post.)

17. The enactment of the Merchant Shipping Act, 1854, Enactment relating to Savings Banks, shall apply to all seamen, and to concerning Savings Banks, shall apply to all seamen, and to concerning Savings Banks their wives and families, whether such seamen belong to the extended to seamen in the royal navy or to the merchant service, or to any other sea Navy.

service.

18. Any naval court summoned, under the provisions of Additional the Merchant Shipping Act, 1854, to hear any complaint Powers of Naval Courts. touching the conduct of the master or any of the crew of any 17 & 18 Vict. ship, shall, in addition to the powers given to it by the said 0.104, 88.260 to Act, have power to try the said master or any of the said 200. crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the United Kingdom, have power to convict summarily, and by order duly made, to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction; provided, that in cases where an offender is sentenced to imprisonment, the sentence shall be confirmed in writing by the senior naval or consular officer present at the place where the court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose, and copies of all sentences made by any naval court summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station.

(Secs. 19 & 20 amended the provisions of Part VIII. of the principal Act relating to wreck and salvage on or near the coasts of the United Kingdom. See Dom. Act relating to wreck and salvage, 36 Vict., c. 55.)

**21.** If any person, being a British subject, charged with Legal Procehaving committed any crime or offence on board any British dure. ship on the high seas or in any foreign port or harbour, or if PART X. of Merchant any Shipping Act, 1884. case of offences on board ship. 12 & 13 Vict.. a. 96

Jurisdiction in any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's Dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits; provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.

> (Sec. 22 makes provision for the relief of destitute Lascars and other natives of the East Indies.)

> (Sec. 23 provides that contracts may be made with natives in India, under certain conditions, binding them to go to the United Kingdom, and then to serve in other ships back to India or elsewhere.)

Saving of former enactments. 4 Geo. 4, c. 80, ss. 25 to 34. 17 & 18 Vict., c. 120, s. 16.

24. Nothing herein contained shall be deemed to repeal or affect any provisions contained in the twenty-fifth, twentysixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, or thirty-fourth sections of the Act of the fourth year of King George the Fourth, chapter eighty, or in the sixteenth section of the Act of the eighteenth year of Her present Majesty, chapter one hundred and twenty.

# 25 & 26 Vict. c. 63—1862.

An Act to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855, and "The Customs Consolidation Act, 1853."

17 & 18 Vict., c. 104. 18 & 19 Vict., c. 91. 16 & 17 Vict., c. 107.

THEREAS it is expedient further to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853:" Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1862," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

3. The enactments described in table (A) in the schedule Enactments in to this Act shall be repealed as therein mentioned, except as pealed. to any liabilities incurred before such repeal.

Registry and Measurement of Tonnage (Part II. of Merchant Shipping Act, 1854.)

3. It is hereby declared that the expression "beneficial Equities not excluded by interest," whenever used in the second part of the Principal Merchant Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is, that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the previsions contained in the said Act relating to the exclusion of unqualified persons from the ownership of British ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.

4. Any body corporate or persons having power to levy Tonnage rates tonnage rates on ships may, if they think fit, with the con-Acts may be sent of the board of trade, levy such tonnage rates upon the legistered ton. registered tonnage of the ships as determined by the rules for nage. the measurement of tonnage for the time being in force under the Principal Act, notwithstanding that the local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

Certificates for Engineers (Part III. of Merchant Shipping Act, 1851.)

(See Dom. Act, 31 Vict, c. 65, s. s. 25-29.)

5. On and after the first day of June, one thousand eight Steam ships to hundred and sixty-three, every steam ship which is required cated Enby the Principal Act to have a master possessing a certificate gineers. from the board of trade shall also have an engineer or engineers possessing a certificate or certificates from the board of trade as follows; that is to say,

- (1.) Engineers' certificates shall be of two grades, viz., "firstclass engineers' certificates," and "second-class engineers' certificates":
- (2.) Every foreign-going steam ship of one hundred nominal horse power or upwards shall have as its first and second engineers two certificated engineers, the first possessing

(1.)

- a "first-class engineer's certificate," and the second possessing a "second-class engineer's certificate," or a certificate of the higher grade:
- (3.) Every foreign-going steam ship of less than one hundred nominal horse power shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade:
- (4.) Every sea-going home trade passenger steam ship shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade:
- (5. Every person who, having been engaged to serve in any of the above capacities in any such steam ship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.

Examinations Competency.

6. The board of trade shall from time to time cause ex-Certificates of aminations to be held of persons who may be desirous of obtaining certificates of competency as engineers: For the purpose of such examinations the board of trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them; lay down rules as to the qualification of applicants, and as to the times and places of examination; and generally do all such acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.

Fees to be paid by applicants for examina-

7. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B.) in the schedule hereto, as the board of trade directs; and such fees shall be paid to such persons as the said board appoints for that purpose, and shall be carried to the account of the mercantile marine fund.

Certificates of P686.

8. The board of trade shall deliver to every applicant who Competency to is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as firstclass engineer or as second-class engineer, as the case may be.

Engineers' Certificates of Service 10 be delivered on proof of cer-

9. Certificates of service for engineers, differing in form from certificates of competency, shall be granted as follows; that is to say,

- (1.) Every person who before the first day of April, one thousand eight hundred and sixty-two, has served as first engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty or of the East India Company, shall be entitled to a "first-class engineer's" certificate of service:
- (2.) Every person who before the first day of April, one thousand eight hundred and sixty-two, has served as second engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or as first or only engineer in any other steam ship, or who has attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineer's certificate" of service:

Each of such certificates of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

10. The provisions of the Principal Act, with respect to Certain Provithe certificates of competency or service of masters and mates, sions of Mercontained in the 188th, 189th, 140th, 161st, and 162d sec-ping Act to tions of the said Act, shall apply to certificates of compedimens Certificates or service granted under this Act in the same manner footes. as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections.

11. The power by the 241st section of the Principal Act Power of Board of Trade given to the board of trade or to any local marine board of and Local Market Power of Board of Trade given to the board of trade or to any local marine board of and Local Market Power of Board of Trade given to the board of trade or to any local Market Power of Board of Trade given to the board of trade given trade given to the board of trade given tra instituting investigations into the conduct of any master or ine Board to mate whom it has reason to believe to be from incompetency conduct of Certificated Entitle of the conduct of the or misconduct unfit to discharge his duties, shall extend to gineers. any certificated engineer whom the board of trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section.

12. The declaration required to be given by the engineer Declaration of surveyor under section 809 of the Principal Act shall, in the Engineer Surcase of a ship by this Act required to have a certificated tain statement of the concerning concerning engineer, contain, in addition to the statements in the said Engineers' certificate.

section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

Third Part of Act to apply to fishing boats, lighthouse vessels, and pleasure yachts, with certain exceptions.

- 13. The following vessels; that is to say,
- lighthouse vessels, and plea. (1.) Registered sea-going ships exclusively employed in fishsure yachts, with certain ing on the coasts of the United Kingdom;
  - (2.) Sea-going ships belonging to any of the three general lighthouse boards;
  - (3.) Sea-going ships being pleasure yachts;

Shall be subject to the whole of the third part of the principal Act: except,—Sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, 284, 285, 286 and 287.

Local Marine Board may determine number of quotum. 14. Whereas doubts have been entertained whether local marine boards have the power of determining a quorum: It is hereby declared, that the power by the 119th section of the Principal Act given to every local marine board of regulating the mode in which its meetings are to be held and its business conducted includes the power of determining a quorum; nevertheless, after the passing of this Act such quorum shall never consist of less than three members.

Titles of Shipping Masters.

Act shall be termed mercantile marine offices, and the officers termed shipping masters and deputy shipping masters in the Principal Act shall be termed superintendents and deputy superintendents of such offices; but nothing in this section contained shall invalidate or affect any Act which may be done at any such office under the title of a shipping office, or any act which may be done by, with, or to any of the said officers under the title of shipping master or deputy shipping master.

Punishment for embezzlement in shipping offices.

16. Any person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of Her present Majesty, chapter ninety-six:

If any such person fraudulently applies or disposes of any chattel, money, or valuable security received by him whilst employed in such office or service for or on account of any

such local marine board or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section:

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement:

In any indictment against such person for such offence it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the board by which he was appointed, or of the board or department for or on account of which he may have received the same; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject matter thereof by the seventyfirst section of the said last-mentioned Act.

17. Whereas it is expedient to make provision in certain Examinations cases for holding examinations of applicants for certificates of masters and mates at ports of competency at places where there are no local marine where there boards: Be it enacted, that the board of trade, if satisfied Marine that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such inconvenience exists; and thereupon the said examiner or examiners shall proceed to such port, and shall there examine the applicants in the presence of such person or persons (if any) as the board of trade may appoint for the purpose; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.

18. It is hereby declared that the 182d section of the Prin-construction cipal Act does not apply to the case of any stipulation made of Sect. 183 of Principal Act. by the seamen belonging to any ship, which according to the Stipulations concerning terms of the agreement is to be employed on salvage service, salvage. with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

19. The payment of seamen's wages required by the 209th Payment of section of the Principal Act shall, whenever it is practicable men shored so to do, be made in money and not by bill; and in cases apporterinely all the section so to do, be made in money and not by bill; and in cases apporterinely all the section sections are sections.

where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the board of trade or of the registrar general of seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be prima facie evidence of the facts stated in such indorsement.

Wages and effects of deceased seamen. 20. The 197th section of the principal Act shall extend to seamen or apprentices who within the six months immediately preceding their death have belonged to a British ship; and such section shall be construed as if there were inserted in the first line thereof after the words "such seaman or apprentice as last aforesaid" the words "or if any seaman or apprentice who has within the six months immediately preceding his death belonged to a British ship."

Recovery of wages, &c., of seamen lost with their ship.

- 21. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows; (that is to say):
- (1.) The board of trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:
- (2.) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the registrar general of seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable:
- (8.) The production out of the custody of the registrar general of seamen or of the board of trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the United Kingdom, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad, stating

that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss:

MERCHANT SHIPPING.

- (4.) The board of trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the Principal
- 22. Whereas under the 211th and 212th sections of the Belief of distressed real Principal Act, and the 16th section of "The Merchant Shipmentobe reping Act Amendment Act, 1855," provision is made for re-gulated by lieving and sending home seamen found in distress abroad:

And whereas doubts are entertained whether power exists under the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money:

Be it enacted, and it is hereby declared, That the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the board of trade may from time to time make or impose; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.

23. The following rules shall be observed with respect to Power of cancelling certification of the control of t 23. The following rules shall be observed with the cancellation and suspension of certificates, that is to say: celling because the cancellation and suspension of certificates, that is to say: celling because the court which hears

- (1.) The power of cancelling or suspending the certificate of a the case. master or mate by the 242d section of the Principal Act conferred on the board of trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, admiralty court, or other court or tribunal by which the case is investigated, or tried, and shall not in future vest in or be exercised by the board of trade:
- (2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such section after "master" or "masters":
- (3.) Every such board, court, or tribunal shall, at the conclusion of the case, or as soon afterwards as possible,

state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the board of trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the board of trade with their report:

- (4.) It shall be lawful for the board of trade, if they think the justice of the case requires it, to reissue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended:
- (5.) The 484th and 487th sections of the Principal Act shall be read as if for the word "nautical" were substituted the words "nautical or engineering," and as if for the word "person" and "assessor" respectively were substituted the words "person or persons" and "assessor or assessors" respectively:
- (6.) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

Certificate to be delivered up. 24. Every master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court, or tribunal, shall, upon demand, deliver it to the board of trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds.

Safety (Part IV. of Merchant Shipping Act, 1854.)

(Secs. 25-34 prescribe rules to be observed for the preventian of collisions (as to carrying lights, fog-signals, &c.,) and provided what should be the consequence of a breach of such rules, but this subject as to navigable waters within the Dominion is governed by Dom. Act, 31 Vict., c. 58.

Surveys of

34. Notwithstanding anything in the 311th section of the Principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April

and October; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months, and no certificate issued by the board of trade shall remain in force more than six months from the date thereof.

(See Dom. Acts relative to the inspection of steamboats.)

#### 35. The following offenders, that is to say:

(1.) Any person who, being drunken or disorderly, has been Penalties on on that account refused admission into any duly surveyed drunken or passenger steamer by the owner or any person in his passengers. employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, neverthcless persists in attempting to enter such steamer:

- (2.) Any person who, being drunken or disorderly on board any such steamer, is requested by the owner or any person in his employ to leave the same at any place in the United Kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;
- (3.) Any person on board any such steamer who, after warn-on persons ing by the master or any other officer of the steamer, passengers. molests or continues to molest any passenger;
- (4.) Any person who, after having been refused admission Penalties on into any such steamer by the owner or any person in his forcing way employ on account of such steamer being full, and who, ship when after having had the full amount of his fare (if he has full. paid the same), returned or tendered to him, nevertheless persists in attempting to enter the same;

(5.) Any person, having got on board any such steamer, And on perwho, upon being requested on the like account by the to quit the owner or any person in his employ to leave such steamer ship when before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same), returned or tendered to him, refuses to comply with such request:

- (6.) Any person who travels or attempts to travel in any such Penalties for steamer without having previously paid his fare, and ment of fares. with intent to avoid payment thereof:
- (7.) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer

- steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;
- (8.) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and
- (9.) Any person on board any such steamer who does not when required by the master or other officer of such steamer either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

Shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.

(As to offences of the nature of those mentioned in this and the following section on steamers registered in Canada see Dom. Act, 86 Vict., c. 57.)

Penalty for injuring steamer or molesting crew.

**36.** Any person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Manner of apprehending offenders.

27. It shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determing of the complaint against such offender.

(Sec. 38 extended the 329th Section of the Principal Act to foreign ships when within the limits of the United Kingdom, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 85.)

Pilotage (Part V. of Merchant Shipping Act, 1854.)

(Secs. 39-42 inclusive amend and extend the provisions of Part V. of the Principal Act, but do not apply to this Province. See note to this part of the Principal Act, ante.)

Lighthouses

Lighthouses (Part VI. of Merchant Shipping Act, 1854.)

(Secs. 43-47 amend and extend the provisions of Part VI. of the Principal Act, but do not apply to this Province. See note to Part VI. of the Principal Act, ante.)

Wreck and Salvage (Part VIII. of Merchant Shipping Act, 1854.)

(Secs. 49-53 inclusive amend the provisions of Part VIII. of the Principal Act relating to procedure in salvage cases and to unclaimed wreck in the United Kingdom, and apply only to the United Kingdom and the adjacent Seas and Islands.)

Liability of Shipowners (Part IX. of Merchant Shipping Act, 1854.)

54. The owners of any ship, whether British or foreign, Shipowners shall not, in cases where all or any of the following events limited. occur without their actual fault or privity, that is to say:

- (1.) Where any loss of life or personal injury is caused to any person being carried in such ship;
- (2.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;
- (3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat;
- (4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever on board any other ship or boat;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam ships the gross tonnage without deduction on account of engine room:

In the case of any foreign ship which has been or can be measured according to *British* law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship:

In

In the case of any foreign ship which has not been and cannot be measured under British law, the surveyor general of tonnage in the United Kingdom, and the chief measuring officer in any British Possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as may be found practicable to furnish, give a certificate under his hand. stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to British law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

Limitation of invalidity of insurances.

55. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

Proof of passongers on hoard lost ship.

**56.** In any proceeding under the 506th section of the Principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of customs under the 16th section of "The Passengers' Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ships at the time of their deaths.

Arrangements concerning Lights, Sailing Rules, Salvage, and Measurement of Tonnage in the Case of Foreign Ships.

Foreign ships in British be subject to regulations in Table (C.) in Schedule.

57. Whenever foreign ships are within British jurisdicjurisdiction to tion, the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any British court of justice concerning matters happening within British jurisdiction, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were British ships.

> (The rules for the prevention of collisions prescribed by Dom. Aet, 31 Vict., c. 58, are extended by Section 10 of that Act to foreign ships when in Canadian waters.)

Regulations, 58. Whenever it is made to appear to Her Majesty that when adopted by a foreign the Government of any foreign country is willing that the be applied to regulations, for preventing collision contained in table (C,) its ships on the in the schedule to this Act, or such other regulations for high assa. preventing

preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid, shall apply to the ships of the said foreign country, whether within British jurisdiction or not.

59. Whenever it is made to appear to Her Majesty that Provisions the government of any foreign country is willing that salvage salvage of life shall be awarded by British courts for services rendered in consent of any saving life from any ship belonging to such country when foreign country such ship is beyond the limits of British jurisdiction, Her to its ships on Majesty may, by Order in Council, direct that the provisions of the Principal Act and of this Act, with respect to salvage for services rendered in saving life from British ships, shall in all British courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within British jurisdiction or not.

60. Whenever it is made to appear to Her Majesty that ships of to-the rules concerning the measurement of tonnage of merchant adopting the ships for the time being in force under the Principal Act have rule for mea-surement of been adopted by the Government of any foreign country, and tonnage need are in force in that country, it shall be lawful for Her Majesty sured in this by Order in Council to direct that the ships of such foreign country. country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be remeasured in any port or place in Her Majesty's Dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes in, to and for which the tonnage denoted in the certificates of registry of British ships is deemed to be the tonnage of such ships.

61 Whenever an Order in Council has been issued under Effect of this Act, applying any provision of this Act or any regulation Order in Council. made by or in pursuance of this Act to the ship of any foreign country, such ships shall in all cases arising in any British court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were British ships.

Majesty may limit the time during which it is to remain in belimited as operation, and may make the same subject to such conditions, and qualified. tions and qualifications, if any, as may be deemed expedient, and thereupon the operation of the said Order shall be limited and modified accordingly.

Orders in Council may be revoked and altered. 63. Her Majesty may by Order in Council from time to time revoke or alter any Order previously made under this Act.

Orders in Council to be published in London Gasette. 64. Every Order in Council to be made under this Act shall be published in the London Gazette as soon as may be after the making thereof; and the production of a copy of the London Gazette containing such Order shall be received in evidence, and shall be proof that the Order therein published has been duly made and issued; and it shall not be necessary to plead such Order specially.

#### Legal Procedure.

20 & 21 Vict., c. 43, s. 3, not to apply to proceedings under Board of Trade or this Act, &c.

65. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceedings under the direction of the board of trade, or under or by virtue of the provisions of the Principal Act or this Act, or any Act amending the same.

(The remaining sections of this Act [66-78] relate to this subject and apply to the United Kinydom only.)

#### The SCHEDULE referred to in this Act.

#### TABLE (A.) See Section 2.

#### Enactments to be repealed.

Reference to Act.	Title of Act.	Extent of Repeal.
8 dt 9 Vict., c. 91.		Section 51 to be repealed immediately on the passing of this Act.
16 & 17 Vict., c. 107.	Customs Consolida- tion Act, 1853.	The last Proviso in Sections 74, and Sections 170, 171, and 172, to be repealed immediately on the pass- ing of this Act.
17 & 18 Viet., c. 104.	Merchant Shipping Act, 1854.	Sections 295, 296, 297, 298, and 299, to be repealed from the date at which the Regulations contained in Table C. in this Schedule come into operation. Sections 300, 322, 328, 504, and 505, to be repealed immediately on the passing of this Act.
19 & 20 Vict., c. 75.	An Act for the fur- ther alteration and amendment of the laws and duties of Customs.	

# TABLE (B.) See Section 6.

Fees to be charged on Examination of Engineers.

For a First-class Engineer's Certificate..... £2 0 0 For a Second-class Engineer's Certificate.... 1 0 0

### TABLE (C.) See Section 25.

#### REGULATIONS FOR PREVENTING COLLISIONS AT SEA.

(These do not apply to Canadian waters. See note to Sections 25-33 of this Act.)

# 30 & 31 Vict., c. 124—1867.

An Act to amend the Merchant Shipping Act, 1854.

DE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Short Title.

1. This Act may be cited as "The Merchant Shipping Act, 1867," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

Commence ment of Act.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and sixty-eight, but shall not apply to any ship which belongs to the United Kingdom and is absent therefrom at the time when this Act comes into operation until such ship has returned to the United Kingdom.

Sections 224, 3. The two hundred and twenty-fourth, two hundred and 17 & 18 Vict, c. twenty-seventh, and two hundred and thirty-first sections of 104, repealed. the Principal Act are hereby repealed. the Principal Act are hereby repealed.

Lime or lemon juice and other anti-seorbutics to be provided 8ay,) and kept on board certain white ships.

- 4. The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics; (that is to
- (1.) The board of trade shall from time to time issue and cause to be published scales of medicines and medical stores suitable for different ships and voyages, and shall also prepare or sanction a book or books containing instructions for dispensing the same:
- (2.) The owners of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be kept on board such ship a supply of medicines and medical stores in accordance with the scale appropriate to the said ship, and also a copy of the said book or of one of the said books containing instructions:
- (3.) No lime or lemon juice shall be deemed fit and proper to be taken on board any such ship, for the use of the crew or passengers thereof, unless the same has been obtained from a bonded warehouse for and to be shipped as stores;

and no lime or lemon juice shall be so obtained or delivered from any warehouse as aforesaid unless the same is shown, by a certificate under the hand of an inspector appointed by the board of trade, to be proper for use on board ship, such certificate to be given upon inspection of a sample after deposit of the said lime or lemon juice in the warehouse; nor unless the same contains fifteen per centum of proper and palatable proof spirits, to be approved by such inspector, or by the proper officer of customs, and to be added before or immediately after the inspection thereof; nor unless the same is packed in such bottles, at such time and in such manner, and is labelled in such manner as the Commissioners of Customs. may direct; provided that when any such lime or lemon juice is deposited in any bonded warehouse, and has been approved as aforesaid by the said inspector, the said spirits, or so much of the said spirits as is necessary to make up fifteen per centum, may be added in such warehouse, without payment of any duty thereon; and when any spirit has been added to any lime or lemon juice, and the same has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship's stores only, upon such terms and subject to such regulations of the Commissioners of Customs as are applicable to the delivery of ship's stores from the warehouse:

- (4.) The master or owner of every such foreign-going ship (except those bound to European ports or to ports in the Mediterranean Sea, and also except such ships or classes of ships bound to ports on the Eastern coast of America. North of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean, North of the same limit, as the board of trade may from time to time exempt from this enactment,) shall provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice from the warehouse duly labelled as aforesaid, such labels to remain intact until twentyfour hours at least after such ship shall have left her port of departure on her foreign voyage, or a sufficient quantity of such other anti-scorbutics, if any, of such quality, and composed of such materials, and packed and kept in such manner, as Her Majesty by Order in Council may from time to time direct:
- (5.) The master of every such ship as last aforesaid shall serve or cause to be served out the lime or lemon juice with sugar (such sugar to be in addition to any sugar required by the articles) or other such anti-scorbutics as aforesaid to the crew so soon as they have been at sea for ten days, and during the remainder of the voyage, except during such time as they are in harbour and are

there supplied with fresh provisions; the lime or lemon juice and sugar to be served out daily at the rate of an ounce each per day to each member of the crew, and to be mixed with a due proportion of water before being served out, or the other anti-scorbutics, if any, at such times and in such quantities as Her Majesty by Order in Council may from time to time direct:

(6.) If at any time when such lime or lemon juice or antiscorbutics is or are so served out as aforesaid any seaman or apprentice refuses or neglects to take the same, such neglect or refusal shall be entered in the official log book in the manner provided by the two hundred and eighty-first section of the Principal Act, and shall be signed by the master and by the mate or some other of the crew, and also by the surgeon or medical practitioner on board, if any:

And if in any such ship as aforesaid such medicines, medical stores, book of instructions, lime or lemon juice, sugar, or anti-scorbutics as are hereinbefore required, are not provided, packed, and kept on board as hereinbefore required, the owner or master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding twenty pounds, unless he can prove that the non-compliance with the above provisions, or any of them, was not caused through any inattention, neglect, or wilful default on his part; and if the lime or lemon juice and sugar or other anti-scorbutics are not served out in the case and manner hereinbefore directed, or if entry is not made in the official log in the case and manner hereinbefore required, the master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding five pounds, unless he can prove that the noncompliance with the above provisions, or any of them, did not arise through any neglect, omission, or wilful default on his part; and if in any case it is proved that some person other than the master or owner is in default in any case under this section, then such other person shall be liable to a penalty not exceeding twenty pounds.

Penalty for

5. Any person who manufactures, sells, or keeps or offers selling, &c., for sale any such medicines or medical stores as aforesaid of bad quality. which are of bad quality, shall for each such offence incur a penalty not exceeding twenty pounds.

Power to

6. In any British Possession out of the United Kingdom Governors, &c., the Governor or officer administering the government for the lations as to such possession, have supply of lime time being shall, subject to the laws of such possession, have or lemon juice, power to make regulations concerning the supply within such possession of lime or lemon juice and anti-scorbutics for the use of ships; and any lime or lemon juice or anti-scorbutics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

7. Whenever it is shown that any seaman or apprentice seamen's who is ill has, through the neglect of the master or owner, case of illness not been provided with proper food and water according to his leet of owner. agreement, or with such accommodation, medicines, medical or master to be stores, or anti-scorbutics as are required by the Principal Act, or by this Act, then, unless it can be shown that the illness has been produced by other causes, the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months wages), either by such seaman himself, or by Her Majesty's Government, or any Officer of Her Majesty's Government, or by any parochial or other local authority on his behalf, and such expenses may be recovered in the same way as if they were wages duly earned: Provided that this enactment shall not operate so as to affect any further liability of any such owner or master for such neglect, or any remedy which any seaman already possesses.

8. Where a seaman is by reason of illness incapable of Forfeiture of performing his duty, and it is proved that such illness has of seamen been caused by his own wilful act or default, he shall not be is caused by entitled to wages for the time during which he is by reason his own default. of such illness incapable of performing his duty.

9. The following rules shall be observed with respect to Place appropriated to propriated to seemen to accommodation on board British ships; (that is to say,)

have a certain

- (1.) Every place in any ship occupied by seamen or appren-man, and to tices, and appropriated to their use, shall have for every constructed such seamen or apprentice of the seamen or apprentice of such seaman or apprentice a space of not less than and kept clear. seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place:
- (2.) Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvium which may be caused by cargo or bilge water:
- (3.) No such place as aforesaid shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by the surveyor hereinafter mentioned: (4.)

- (4.) Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the board of trade under Part IV. of the Principal Act, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the collector of customs a certificate to that effect, and thereupon such space shall be deducted from the register tonnage:
- (5.) No such deduction from tonnage as aforesaid shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, the number of men which it is constructed to accommodate, with the words "certified to accommodate":
- (6.) Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage:
- (7.) Upon any complaint concerning any such place as afore-said, one of the surveyors appointed by the board of trade may inspect such place, and if he finds that any of the provisions of this Act with respect to the same are not complied with he shall report the same to the collector of customs, at the port where the ship is registered, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it shall be certified by such surveyor, or by some other surveyor appointed by the board of trade, that the provisions of the Act in respect
- (8.) If any such place in any ship is not kept free from goods and stores as aforesaid, the master shall be deemed to be in fault, and shall for every such failure to comply with the provisions of this section forfeit and pay to each seaman lodged in such place the sum of one shilling a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, not being the personal property of the crew, are stored or kept therein.
- (9.) If in any other respect the provisions of this section are not observed with respect to any such place in any ship the owner shall be deemed to be in fault, and shall for every failure to comply with the provisions of this section incur a penalty not exceeding twenty pounds.

of such place are fully complied with:

CAP. 124.

- 10. The following rules shall be observed with respect to Rules for inspection of seamen the medical inspection of seamen, that is to say:
- (1.) At any port where there is a local marine board the local marine board, and at other ports in the United Kingdom the board of trade, may appoint a medical inspector of seamen:
- (2.) Such medical inspector of seamen shall, on application by the master or owner of any ship, examine any seaman applying for employment in such ship, and shall give to the superintendent of the mercantile marine office a report under his hand stating whether such seaman is in a fit state for duty at sea, and a copy of such report shall be given to the master or owner of the ship:
- (3.) The master or owner applying for such inspection shall pay to the superintendent such fees as the board of trade direct, and such fees shall be paid into and form part of the mercanfile marine fund:
- (4.) The said medical inspectors shall be remunerated for their services as the board of trade may direct, and such remuneration shall be paid out of the mercantile marine fund :
- (5.) In British Possessions out of the United Kingdom the Governor or other Officer administering the Government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

11. If any British subject commits any crime or offence offences by on board any British ship, or on board any foreign ship to British to be under which he does not belong, any court of justice in Her salps. Majesty's Dominions, which would have had cognizance of such crime or offence if committed on board a British ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

(Sec. 12 authorises Her Majesty to commission the Harbour Master at Holyhead as a justice of the peace.)

# 31 & 32 Vict., c. 129—1868.

An Act to amend the Law relating to the Registration of ships in British Possessions.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Grant of terminable certificates of registry, subject to conditions, in colonies.

1. The Governor or Officer lawfully administering the Government of any British Possession may from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that Possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Ship to be deemed registered.

2. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered British ship.

Governors abroad may appoint surveyors. 3. The Governor of any British Possession abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such Possession all the powers with respect to the inspection of crew spaces that are conferred upon the board of trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

Construction of Act.

4. This Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short Title.

5. This Act may be cited as The Colonial Shipping Act, 1868.

## 32 Vict., c. 11—1869.

An Act for amending the Law relating to the Coasting Trade and Merchant Shipping in *British* Possessions.

[13th May, 1869.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### Preliminary.

- 1. This Act may be cited as "The Merchant Shipping Short Title. (Colonial) Act, 1869."
  - 2. In this Act, unless the context otherwise requires,—Definition of terms.

The term "British Possession" means any territory or "British posplace situate within Her Majesty Dominions, and not forming session." part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined, are deemed to be one British Possession for the purposes of this Act:

The term "Legislature" includes any person or persons "Legislature.' who exercise legislative authority in the British Possession, and where there are local legislatures as well as a central legislature, means the central legislature only.

3. This Act shall be proclaimed in every British Posses-commencesion by the Governor thereof, as soon as may be, after he receives notice of this Act, and shall come into operation in that British Possession on the day of such proclamation, which day is hereinafter referred to as the commencement of this Act.

### Coasting Trade.

- 4. After the commencement of this Act the Legislature of a Regulation of British Possession, by any Act or Ordinance, from time to coasting trade time, may regulate the coasting trade of that British Posses-Legislature. sion, subject in every case to the following conditions:—
- (1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into

into operation until Her Majesty's pleasure thereon has been publicly signified in the British Possession in which it has been passed.

- (2.) The Act or Ordinance shall treat all British ships (including the ships of any British Possession) in exactly the same manner as ships of the British possession in which it is made:
- (3.) Where by treaty made before the passing of this Act, Her Majesty has agreed to grant to any ships of any foreign state, any rights or privileges in respect of the coasting trade of any British Possession, such rights and privileges shall be enjoyed by such ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

(See Dom. Act, 33 Vict., c. 14.)

lections 328 5. The following sections of "The Customs Consolidation 17 Vict. c. 107 Act, 1853," are hereby repealed, namely:

> Section three hundred and twenty-eight, as from the commencement of this Act:

> Section one hundred and sixty-three as from the date in the case of each British Possession at which either an Act or Ordinance with respect to the coasting trade made within two years after the commencement of this Act in such British Possession comes into operation, or if there is no such Act or Ordinance, at which the said two years expire.

(See Dom. Act, 33 Vict., c. 14.)

### Merchant Shipping.

Registrars of British ships from time to time to declare, with respect to the British Posin British position of persons session mentioned in the order, the description of persons who are to be registrars of British ships in that British Possession, and to revoke any order so made; after the date specified in the order, or, if no date is specified,—after the date of the proclamation of the order in the British Possession, the order shall have effect as if it were contained in section thirty of "The Merchant Shipping Act, 1854."

(But see Dom. Act, 36 Vict., c. 128, s. 10.)

"Application of Merchant

7. In the construction of "The Merchant Shipping Act, Shipping Acts 1854," and of the Acts amending the same, Canada shall be to Canada. deemed to be one British Possession.

- 8. Where the legislature of any British Possession pro- Colonial certificates to masvides for the examination of, and grant of certificates of com- ter, mates and petency to persons, intending to act as masters, mates or engineers. engineers on board British ships, and the board of trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom, under the Acts relating to Merchant Shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited, for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council,

- (1.) To declare that the said certificates shall be of the same force as if they had been granted under the said Acts:
- (2.) To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order:
- (3.) To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the London Gazette of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose. in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.

(See Dom. Acts, 31 Vict., c. 65; 33 Vict., c. 70; and 36 Vict., c. 53.)

# 34 & 35 Vict., c. 110.

An Act to amend the Merchant Shipping Acts, 1871.

[21st August, 1871.]

HEREAS it is expedient to amend the Merchant Shipping Acts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

#### Preliminary.

Short Title!

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1. This Act may be cited as The Merchant Shipping Act, 1871.

Act to be con-strued with Merchant Shipping Act.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1871.

Commence ment of Act.

3. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-two.

Registry (Part II. of Merchant Shipping Act, 1854.)

(Section 4 prescribed the particulars to be marked upon ships before registry, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33; and see Section 3 of that Act.)

Ship's draught of water to be recorded.

5. The board of trade may, in any case or class of cases in which they think it expedient so to do, direct any person appointed by them for the purpose to record, in such manner and with such particulars as the Board of Trade direct, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and on her stern post, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea; and such person shall thereupon keep such record, and shall from time to time forward the same, or a copy thereof, to the Board of Trade; and such record, or any copy thereof, if produced by or out of the custody of the Board of Trade, shall be admissable in evidence of the draught of water of the ship at the time specified in the record.

The

The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water in the official log-book (if any), and shall produce such record to any principal officer of customs whenever required by him so to do, or in default of such production shall incur a penalty not exceeding twenty pounds...

6. With respect to the names of British ships, the follow-Bules to be observed in ing rules shall be observed:

naming of ships

- (1.) A ship shall not be described by any name other than that by which she is for the time being registered:
- (2.) No change shall be made in the name of a ship without the previous permission of the Board of Trade signified in writing under their seal, or under the hand of one of their secretaries or assistant secretaries. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern:
- (3.) If in any case it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without such permission as aforesaid, they shall direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly:
- (4.) Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry, (proof whereof shall lie on him,) shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless with the permission of the Board of Trade granted as aforesaid.

Every person who acts or suffers any person under his control to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do, anything required by this section, shall for each offence incur a penalty not exceeding one hundred pounds, and any principal officer of customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Board of Trade. If the Board are of opinion that the application is made on reasonable grounds they may entertain the same, and shall thereupon require notice thereof to be published in such form and manner as they think fit.

(See

(See Imp. Act, 36 & 37 Vict., c. 85, s. 5; and Dom. Act, 36 Vict., c. 128, s. 22.)

Masters and Seamen (Part III. of Merchant Shipping Act, *1854.*)

Survey of ships 7. Whenever in any proceeding against any seaman or men to be unapprentice belonging to any ship for desertion, or for neglect-seaworthy. ing or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear; the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed:

> Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification.

> For the purposes of this section, the court shall require any of the surveyors appointed by the Board of Trade, under the Merchant Shipping Act, 1854, or any person appointed for the purpose by the Board of Trade, or, if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court may think fit to put. Such surveyor or other person shall survey the ship, and make his report in writing to the court, including an answer to every question put to him by the court. The court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before them in accordance with those opinions.

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board of Trade, under the Merchant Shipping Act, 1854.

The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the mercantile marine fund.

If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea, or, as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand, or in consequence of whose allegation, the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons, and shall be paid over to the Board of Trade.

If it is proved that the ship is not in a fit condition to proceed to sea, or, as the case may be, that the accommodation is insufficient, the cost of the survey shall be prid to the Board of Trade by the master or owner.

8. Any naval court may, if they think fit, direct a survey power for of any ship which is the subject of an investigation held be-direct survey fore them, and such survey shall be made in the same way, of ships. and the surveyor who makes the same, shall have the same powers, as if the survey had been directed by a competent court in the course of proceedings against a seaman or apprentice for desertion or a kindred offence.

Safety (Part IV. of Merchant Shipping Act, 1854.)

(Sec. 9 prescribed the duties of Masters in case of collision but is repealed by Imp. Act, 36 & 37 Vict., c. 85, sec. 33, and see ss. 16 & 17 of that Act.)

(Sec. 10 gave power to the Board of Trade to declare ships unseaworthy, but did not apply to Canada and is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33.)

(Sec. 11 made the sending a ship to sea in an unseaworthy state so as to endanger the lives of any person on board a misdemeanour, but this sec. is repealed by Imp. Act, 38 & 39 Vict., c. 88, s. 4, post, and a new section making more stringent provisions for the same purpose, is substituted.)

Repeal of certain sections of 17 and 18 Vict., c. 104, and 18 and 19 Vicţ., c. 91.

12. On and after the first day of January, one thousand eight hundred and seventy-two, the twenty-fifth and thirtyfourth sections of the Merchant Shipping Act, 1854, and the thirteenth section of the Merchant Shipping Act Amendment Act, 1855, shall be repealed.

# 35 & 36 Vict., c. 73—1872.

An Act to amend the Merchant Shipping Acts and the rassenger Acts.

THEREAS it is expedient to amend the Merchant Shipping Acts and the Passenger Acts:

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Preliminary.

Short Title.

1. This Act may be cited as the Merchant Shipping Act, 1872.

Commence ment of Act.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-three.

## Measurement of Ships.

Transfer to Board of Trade of duties of Commissioners of Customs measurement of ships.

3. The twenty-third, twenty-seventh, twenty-eighth, and twenty-ninth sections of the Mcrchant Shipping Act, 1854, the fourteenth section of the Merchant Shipping Act Amendwith respect to ment Act, 1855, and the fourth section of the Merchant Shipping Act, 1871, shall be read and construed as if the Board of Trade were therein named instead of the Commissioner of Customs.

### Registry.

Transfer to registry of ships.

4. The forty-sixth, fifty-fourth, ninety-second and ninety-Begistrar-Gen-eral of Seamen fourth sections of the Merchant Shipping Act, 1854, shall be or auties or read and construed as if the Registrar General of Seamen ers of Costoms were therein named instead of the Commissioners of Customs, with respect to and the returns required to be transmitted by the said ninetyfourth fourth section of the Merchant Shipping Act, 1854, shall be transmitted to the Registrar General of Seamen and not to the custom house in London, and the Registrar General of Seamen shall be called the Registrar General of Shipping and Seamen.

### Passenger Ships.

5. The sixth and seventh sections of the Passengers Act, Transfer to Board of Trade 1855, except so much of the latter section as provides for the of powers and immunity of emigration officers, shall be repealed, and all gration compowers and duties vested in or imposed on the Emigration missioners. Commissioners by the Passengers Act, 1855, and the Passengers Act Amendment Act, 1863, shall be transferred to and imposed on the Board of Trade.

In the construction and for the purposes of the said A 4s the name of the Board of Trade shall be deemed to la substituted for the name of the Emigration Commissioners and anything which might, if this Act had not passed, have been done by the Emigration Commissioners, whether acting independently or under the sanction or authority of one of Her Majesty's Principal Secretaries of State, may be done by the Board of Trade independently of such sanction or authority.

6. The provisions contained in the eighty-third section of Extension of the Passengers' Act, 1855, shall extend to any forms of ap-offences conplication or other papers issued by or under the authority of nected with one of Her Majesty's Principal Secretaries of State, for the for assistance use of persons desirous of emigrating by his assistance, and in emigration. to any certificate, document, or statement adduced in support of any application to such Secretary for such assistance.

7. The powers conferred by the thirteenth section of the Transfer to Passengers' Act Amendment Act, 1863, on one of Her of powers of Majesty's Principal Secretaries of State, shall be transferred Secretary of State under to the Board of Trade.

Act.

### Annual Survey of Passenger Steamers.

8. The three hundred and fourth section of the Merchant Passenger Shipping Act, 1854, shall be repealed, and every passenger steamers to be steamer shall be surveyed once at the least in every year, in in every year, the manner mentioned in the fourth part of that Act.

104.

The fees to be charged for certificates issued in respect of such survey, shall not exceed for a yearly certificate twice the sum named in the table marked T in the schedule to the said Act as chargeable for a six months' certificate.

(Sections 9, 10 and 11, amend the provisions of the Principal Act as to pilotage, but do not extend to Canadian waters. Section 12 relates to fees for testing chain cables and applies only to the United Kingdom.)

General.

CAP. 73.

#### General.

Duties of surveyors.

13. All duties in relation to the survey and measurement af ships under this Act or the Acts amended hereby shall be performed by the surveyors appointed under the fourth part of the Merchant Shipping Act, 1854, in accordance with such regulations as may be from time to time made by the Board of Trade.

Fees and salegration offi-

14. All fees payable in respect of the survey or measureries of survey.
ors and emi-ment of ships under this Act or the Acts amended hereby, or in respect of any services performed by any person employed under the authority of the Passengers' Act, 1855, shall be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade may from time to time direct, and shall be carried to the mercantile marine fund; and the salaries of surveyors and other expenses connected with the survey and measurement of ships under this Act or the Acts amended hereby, and also so much of the salaries and expenses of persons employed under the authority of the Passengers' Act, 1855, as has heretofore been paid by fees shall be paid out of the mercantile marine fund.

Penalty on sur-

15. If any surveyor, or any person employed under the veyor, etc., re-celving gratui- authority of the Passengers' Act, 1853, demands or receives ty, etc., for directly or indirectly, otherwise than by the directly whatformed under Board of Trade, any fees, remuneration, or gratuity whatever, in respect of any of the duties performed by him under this Act or Acts amended hereby, he shall for every such offence incur a penalty not exceeding fifty pounds.

(Section 16 applies only to home-trade ships.)

Her Majesty

17. It shall be lawful for Her Majesty to accept from time may accept to time the offers of any person whom the Lord High Admiral sons recom-mended by the or the Commissioners for executing his office may recommend. Admiralty to serve as Officers of Reserve in the Royal Navy upon such terms and conditions as to Her Majesty may from time to time seem fit, and the "Officers of the Royal Naval Reserve Act, 1863," shall be read and construed as if this clause formed part of the said Act.

## 36 & 37 Vict., c. 85.

## An Act to amend the Merchant Shipping Acts.

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

### Preliminary.

- 1. This Act may be cited as the Merchant Shipping Act, short Title. 1873.
- 2. This Act shall be construed as one with the Merchant Construction of Act. Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873.

#### Registry (Part II. of Merchant Shipping Act, 1854.)

3. Every British ship registered after the passing of this Particulars to Act shall before registry, and every British ship registered British ships. before the passing of this Act, shall on or before the first day of January, one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows:

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches and of proportionate breadth:

Her official number and the number denoting her registered tonnage shall be cut in on her main beam:

A scale of feet denoting her draught of water shall be marked on each side of her stern and of her stern-post in Roman capital letters, or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve. The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them:

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds:

The

The marks required by this section shall be permanently continued and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts 1854 to 1873:

Any owner or master of a *British* ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of customs, on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked, may detain the same until the insufficiency or inaccuracy has been remedied:

Provided, that no fishing vessel, duly registered, lettered, and numbered, in pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section:

Provided also, that if any registered British ship, if not within a port of the United Kingdom at any time before the first day of January, one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.

(As to additional marks to be made on British ships see Imp. Act, 38 &:39 Vict., c. 88, s. 5 & 6.)

Particulars to be entered in record of draught of water. 4. The records of the draughts of water of any sea-going ships required under section five of the Merchant Shipping Act, 1871, shall in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the deck, from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers any one under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

Rules as to names of foreign ships 5. Whereas a foreign ship, not having at any previous time been registered as a *British* ship, becomes a *British* ship, no person

person shall apply to register, and no registrar shall knowingly placed on Britregister such ship except by the name she bore as a foreign ship immediately before becoming a British ship, unless with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

Any person who acts, or suffers any person under his control to act, in contravention of this section, shall for each . offence incur a penalty not exceeding one hundred pounds.

6. When a ship has ceased to be registered as a British ship Restrictions by reason of having been wrecked or abandoned, or for any tion of abanreason other than capture by the enemy or transfer to a person doned ships. not qualified to own a British ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

#### Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

7. Any agreement with a seamen made under section one Agreements with seamen. hundred and forty-nine, of the Merchant Shipping Act, 1854, may, instead of stating the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

(Section 8 relates to agreements with fishermen by owners of ships engaged in fishing off the coasts of the United Kingdom.)

9. If any seaman or apprentice belonging to any ship is Compensation detained on a charge of desertion or any kindred offence, and unnecessary if, upon a survey of the ship being made under section seven detention on of the Merchant Shipping Act, 1871, it is proved that she is desertion. not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.

(See Imp. Act., 38 & 39 Vict., c. 88, s. 8, post.)

10. In any case where the business of a mercantile marine Power for office is conducted otherwise than under a local marine board, to establish the Board of Trade may, if they think fit, instead of conducting such business at a custom house or otherwise, establish a mercantile marine office, and for that purpose procure at certain at certain the requisite buildings and property, and from time to time portal appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates

certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.

Power of Her cil to apply certain provi-sions of Mer-chant Ship-ping Acts to foreign ships,

11. Whenever it has been made to appear to Her Majesty Majorty by Order in Coun- that the government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1873, relating to the engagement and discharge of seamen, shall apply to the ships of such state, Her Majesty may, by Order in Council, declare that such of the said provisions as are in such order specified, shall subject to the limitations, if any, contained in the order, apply, and thereupon, so long as the order remains in force, such provisions shall apply, subject to the said limitations, to the ships of such state and to the owners, masters, officers and crews of such ships when not within the jurisdiction of such state, in the same manner in all respects as if such ships were British ships.

> It shall and may be lawful for Her Majesty, from time to time, by Order in Council, to add to, alter or repeal any Order made under this section.

> Safety and Prevention of Accidents (Part IV. of Merchant Shipping Act, 1854.)

Survey of ships suspected of

12. Where the Board of Trade have received a complaint or have reason to believe that any British ship is by reason of the defective condition of her hull, equipment, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, they may, if they think fit, appoint some competent person or persons to survey such ship and the equipments, machinery, and cargo thereof, and to report thereon to the Board.

Any person so appointed may, for the purpose of such survey, require the unloading or removal of any cargo, ballast or tackle, and shall have all the powers of an inspector appointed under The Merchant Shipping Act, 1854.

Any person who (having notice of the intention to hold such survey) wilfully does or causes to be done any act by which the person appointed to make such survey is prevented from or obstructed in ascertaining the condition of the ship, her equipments, machinery and cargo shall be liable to a penalty not exceeding fifty pounds.

The Board of Trade may, if they think fit, order that any ship be detained for the purpose of being surveyed under this section, and thereupon any officer of customs may detain such ship until her release be ordered either by the Board of Trade, or by any court to which an appeal is given under this Act.

Upon the receipt of the report of the person making any such survey, the Board may, if, in their opinion, the ship cannot proceed to sea without serious danger to human life,

make such further order as they may think requisite as to the detention of the ship, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo, as the Board may impose. They may also, from time to time, vary or add to such order.

A copy of any such order, and of the report upon which it was founded, and also of any variation of, or addition to, such order, shall be delivered as soon as possible to the owner or master of the ship to which it relates.

When a ship has been detained under this section she shall not be released by reason of her *British* register having been closed.

(See Imp. Act, 38 & 39 V., c. 88, s s. 1 & 2, post.)

13. If upon the survey of a ship under this Act, she is reported to have been at the time of the survey, having regard to the nature of the service for which she was then intended, unfit to proceed to sea without serious danger to human life, the expenses incurred by the Board of Trade in respect of the survey shall be paid by the owner of the ship to the Board of Trade, and shall, without prejudice to any other remedy, be recoverable by them in the same manner as salvage is recoverable.

If upon such survey the ship is not reported to have been unfit to proceed to sea, having regard to the nature of the service for which she was intended, the Board of Trade shall be liable to pay compensation to any person for any loss or damage which he may have sustained by reason of the detention of the ship for the purpose of the survey or otherwise in respect of such survey.

Where a complaint has been made to the Board of Trade that a ship is not fit to proceed to sea, they may, if they think fit, before ordering a survey of the ship, require the complainant to give or provide such security as they may think sufficient for the payment of the costs and expenses which they may incur in respect of the survey of the ship, and of the compensation which they may be rendered liable to pay for loss or damage caused by her detention, for the purpose of such survey or otherwise in respect of such survey.

Where a ship has been surveyed under this Act in consequence of a complaint made to the Board of Trade, if upon such survey being made it appear that such complaint was made without reasonable cause, the expenses incurred by the Board in respect of the survey of the ship and the amount (if any) which the Board may have been rendered liable to pay in respect of any loss or damage caused by her detention, shall be recoverable by the Board from such complainant.

All

All moneys payable by the Board of Trade in respect or by reason of the survey or detention of a ship under this Act, shall, subject to the right by this section provided of recovering such moneys from the complainant, be paid out of moneys to be provided by Parliament.

(See note to Sec. 12, supra.)

Appeal from decision of Board of Trade. 14. If the owner of any ship surveyed under this Act is dissatisfied with any order of the Board of Trade made upon such survey, he may apply to any of the following courts having jurisdiction in the place where such ship was surveyed; that is to say,—

In England, to any court having admiralty jurisdiction:

In Ireland, to any court having jurisdiction under the Court of Admiralty (Ireland) Act, 1867:

In Scotland, to the court of the sheriff of the county.

The court may upon such application, if they think fit, appoint one or more competent persons to survey the ship anew, and any surveyor so appointed shall have all the powers of the person by whom the original survey was made. Such survey shall, if so required by the Board of Trade or the shipowner, be made in the presence of any person or persons appointed by them respectively to attend at the survey.

The court to which such application is made may make such order as to the detention or release of the ship, as to the payment of any costs and damages which may have been occasioned by her detention, as to the payment of the expenses of the original survey and of the survey anew and otherwise as to the payment of any costs of and incident to the application as to the court may seem just.

(The remaining clauses of this section related only to applications to county and local courts in England and Ireland respectively. See note to Sec. 12, supra.)

Power of Board of Trade to vary requirements as to boats.

15. In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may, at the request of the owner, authorize the reduction of the number and the variation of the dimensions of the boats required for the ship by section two hundred and ninety-two of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section two hundred and ninety-three of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.

16.

16. In every case of collision between two vessels it shall Duties of be the duty of the master or person in charge of each vessel, ease of colliif and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary, in order to save her from any danger caused by the collision; and also to give to the master or person in charge of the other vessel, the name of his own vessel and her port of registry and of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound.

If he fail so to do and no reasonable cause is shewn, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a British vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid, shall be deemed guilty of a misdemeanour, and if he is a certificated officer an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

(See Dom. Act, 31 Vict., c. 58, s. 11.)

17. If in any case of collision it is proved to the court before Liability for which the case is tried that any of the regulations for preventing collisions contained in or made under the Merchants' Ship-in cases of eoping Acts, 1854 to 1873, has been infringed, the ship by which liston. such regulation shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

(See Dom. Act, 31 Vict., c. 58, s. 6.)

18. The signals specified in the first schedule to this Act Signals of disshall be deemed to be signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display any of the said signals except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained, in consequence of such signals having been supposed to be a signal of distress, and such compensation may without prejudice to any other remedy be recovered in the same manner in which salvage is recoverable.

19. If a vessel requires the services of a pilot, the signals signals for to be used and displayed shall be those specified in the second pilots. schedule of this Act.

Any master of a vessel who uses, or causes or permits any person under his authority to use or display any of the said signals for any other purpose than that of summoning a pilot, or uses or canses or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

Pewer to alter rules as to sig-nals.

20. Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same force as the rules in the said schedules.

Private sig-

21. Any shipowner who is desirous of using, for the purpose of a private code, any rockets, lights, or other similar signals, may register such signals with the Board of Trade, and the Board shall give notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals of distress or signals for pilots.

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered, shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

Notice to be

22. If the managing owner or in the event of there being given of apprehended loss of no managing owner, the ship's husband, of any British ship have reason, owing to the non-appearance of such ship or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglects to do so within a reasonable time, he shall incur a penalty not exceeding fifty pounds.

Restrictions on carriage of dangerous goods.

23. If any person sends or attempts to send by, or not being the master or owner of the vessel, carries or attempts to carry in any vessel, British or foreign, any dangerous goods (that is to say), aquafortis, vitriol, naptha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and give written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time

of sending the same to be shipped, or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds; provided, that if such person shew that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.

**24.** If any person knowingly sends or attempts to send by or Penalty for carries or attempts to carry in any vessel, British or foreign, any mis-description of dangerdangerous goods or goods of a dangerous nature under a false ous goods. description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.

25. The master or owner of any vessel, British or foreign, Power to remay refuse to take on board any package or parcel which he fuse to carry suspects to contain goods of a dangerous nature, and may ed of being dangerous. require it to be opened to ascertain the fact.

26. Where any dangerous goods are defined in this Act, or Power to throw any goods which in the judgment of the master or owner of overboard the vessel are of a dangerous nature, have been sent or brought goods. aboard any vessel, British or foreign, without being marked aforesaid, or without such notice having been given, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall in respect of such throwing overboard be subject to any liability, civil or criminal, in any court.

27. Where any dangerous goods have been sent or carried, Forfetture of or attempted to be sent or carried, on board any vessel, goods impre-British or foreign, without being marked as aforesaid or perly sent. without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal, notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may in in its discretion require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

Saving as to dangerous goods Act.

28. The provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize that any person be sued or prosecuted twice in the same matter.

(See "The Carriage of Dangerous Goods Act, 1873." Dom. Act. 36 Vict., c. 8.])

(Section 29 provided that certain foreign ports might be declared ports of registry.)

Fees in respect of surveys.

30. There shall be paid in respect of the several measurements, inspections and surveys, mentioned in the third schedule hereto, such fees not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

**Board of Trade** may sue in officers.

31. In any legal proceedings under the Merchant Shipping Acts, 1854 to 1873, the Board of Trade may take proceedings in the name of any of their officers.

Certain seccome into force until 1st Nov., 1873.

32. The following sections of this Act (that is to say), sections sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, and twenty-eight, shall not come into operation until the first day of November, one thousand eight hundred and seventy-three.

Repeal of cer-tain sections of tne Merchant Shipping Acts, 1862 and 1871,

- 33. Section twenty-nine of the Merchant Shipping Act Amendment Act, 1862, and sections four and ten of the Merand of certain after the first day of November, one thousand eight hundred ef Merchant and seventy-three, sections three hundred and twenty-seven and three hundred and twenty-nine of the Merchant Shinning chant Shipping Act, 1871, are hereby repealed; and on and Act, 1854; sections thirty-three and thirty-eight of the Merchant Shipping Act Amendment Act, 1862; and section nine of the Merchant Shipping Act Amendment Act, 1871, shall be repealed, but this repeal shall not affect
  - (1.) Anything duly done before this Act comes into operation:
  - (2.) Any right acquired or liability accrued before this Act comes into operation:
  - (8.) Any penalty, forfeiture, or other punishment incurred or to be incurred, in respect of any offence committed before this Act comes into operation; or,
  - (4.) The institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULES.

#### SCHEDULES.

#### SCHEDULE I.

#### Signals of Distress.

IN THE DAY-TIME.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the day time:—

- 1. A gun fired at intervals of about a minute.
- 2. The International Code signal of distress indicated by N C.
- 3. The distant signal consisting of a square flag, having, either above or below it, a ball, or anything resembling a ball.

Ar xight.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night:—

- 1. A gun fired at intervals of about a minute.
- 2. Flames on the ship (as from a burning tar barrel, oil barrel, etc.)
- 3. Rockets or shells of any colour or description fired one at a time at short intervals.

#### SCHEDULE II.

Signals to be made by Ships wanting a Pilot.

IN THE DAY-TIME—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the day time, viz:—

- 1. To be hoisted at the fore, the Jack or other national colour usually worn by merchant ships, having round it a white border one fifth of the breadth of the flag; or,
- 2. The International Code pilotage signal indicated by P T.

Ar MIGHT.—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, v.z:—

- 1. The pyrotechnic light, commonly known as a blue light, every fifteen minutes; or,
- A bright white light, flashed or shewn at short or frequent intervals, just above the bulwarks, for about a minute at a time.

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#### SCHEDULE III.

Table of Maximum	Fees to	be paid	for the	measurement,	survey
and	inspectio	m of me	rchant	ships.	_

1. For measurement of tonnage.  For a ship under 50 tons register tonnage	• • •			
For a ship under 50 tons register tonnage	1. For measurement of tonnage.	£	<b>s</b> .	d.
" from 50 to 100 " 110 00" " 100 to 200 " 2 0 0 " 200 tb 500 " 3 0 0 " 500 to 800 " 4 0 0 " 800 to 1,200 " 5 0 0 " 1,200 to 2,000 " 6 0 0 " 2,000 to 3,000 " 7 0 0 " 3,000 to 4,000 " 8 0 0 " 4,000 to 5,000 " 9 0 0 " 5,000 and upwards 10 0 0  2. For the inspection of the berthing or sleeping accommodation of the crew.  For each visit to the ship 0 10 0  Provided as follows:  1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.  2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.  3. For the survey of emigrant ships.  4 s. d.  (a) For an ordinary survey of the ship and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores 10 0 0  (b) For a special survey 15 0 0  (c) In respect of the medical examination of passengers and crew for every hundred persons or fraction of a hundred persons examined 10 0  4. For the inspection of lights and fog signals.  For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective 0 10 0	For a ship under 50 tons register tonnage			0
" " 200 to 500 "		1	10	0
" " 500 to 800 " 4 0 0 " " 500 to 800 " 4 0 0 " " 800 to 1,200 " 5 0 0 " " 1,200 to 2,000 " 6 0 0 " " 2,000 to 3,000 " 7 0 0 " " 3,000 to 4,000 " 8 0 0 " " 4,000 to 5,000 " 9 0 0 " " 5,000 and upwards 10 0 0  2. For the inspection of the berthing or sleeping accommodation of the crew.  **Es. d.**  For each visit to the ship 0 10 0  Provided as follows:  1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.  2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.  8. For the survey of emigrant ships.  (a) For an ordinary survey of the ship and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores 10 0 0  (b) For a special survey 15 to 80 0  (c) In respect of the medical examination of passengers and crew for every hundred persons or fraction of a hundred persons examined 1 0 0  4. For the inspection of lights and fog signals.  For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective 0 10 0	" " " 100 1 000 "	2	0	0
" " 800 to 1,200 " 5 0 0 " " 1,200 to 2,000 " 6 0 0 " 2,000 to 8,000 " 7 0 0 " 3,000 to 4,000 " 8 0 0 " " 4,000 to 5,000 " 9 0 0 " " 5,000 and upwards 10 0 0  2. For the inspection of the berthing or sleeping accommodation of the crew.  For each visit to the ship 0 10 0  Provided as follows:  1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.  2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.  3. For the survey of emigrant ships.  4 s. d.  (a) For an ordinary survey of the ship and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores.  (b) For a special survey 10 0 0  (c) In respect of the medical examination of passengers and crew for every hundred persons or fraction of a hundred persons examined 10 0 0  4. For the inspection of lights and fog signals.  For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective 0 10 0		3	0	0
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" 5,000 and upwards		9	0	0
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medical stores	<ol> <li>The aggregate amount of the fees for any surtion shall not exceed one pound (£1) whethen umber of separate visits.</li> <li>When the accommodation is inspected at time with the measurement of the tonnage rate fee shall be charged for such inspections.</li> <li>For the survey of emigrant ships.</li> <li>For an ordinary survey of the ship and of her equipments, accommodation, stores, light,</li> </ol>	the the on.	Ba.	be me pa-
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	tion of the owner, and for each visit made where the lights or fittings are found de-	0	10	0
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Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

## 38 & 39 Vict., c. 88—1875.

An Act to make provisions for giving further powers to the Board of Trade for stopping unseaworthy ships.

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

1. The Board of Trade may forthwith, and from time to Appointment time, by special order, appoint a sufficient number of fit and officers having proper persons, from their own staff or otherwise, to be officetain unseacers having authority to detain unseaworthy ships, and may worthy ships. from time to time revoke any such appointment.

If any officer so appointed has reason to believe, upon inspection or otherwise, that any British ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, he may order that the ship be detained for the purpose of being surveyed. Any such order shall have the same effect as if it were an order of the Board of Trade, under section twelve, of the Merchant Shipping Act, 1873.

For the purpose of ascertaining whether a British ship is fit to proceed to sea, any officer so appointed may go on . board the ship and inspect the same, or any part thereof, or any of the machinery, boats, equipments, or other articles on board thereof, not unnecessarily detaining or delaying her from proceeding on her voyage; and any person who wilfully impedes him in the execution of his duty shall be liable to the same penalties, and may be dealt with in the same manner, as if the officer were an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

When any officer so appointed orders a ship to be detained, he shall forthwith report his proceedings to the Board of Trade.

An officer so appointed shall receive such remuneration for his services under this Act as the Treasury from time to time direct, and such remuneration shall be paid out of moneys to be provided by Parliament.

Ship to be de-

2. Whenever a complaint is made to the Board of Trade, tained on com-plaint of crew. or to any officer so appointed, by one-fourth the seamen belonging to any British ship, that the ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, it shall be the duty of the Board or officer, as the case may be, if the complaint is made within time sufficient for that purpose before the sailing of the ship, without requiring any security for the payment of costs and expenses, to take proper steps for ascertaining whether the ship ought to be detained for the purpose of being surveyed under the Merchant Shipping Act, 1873.

Cargo of grain.

3. From and after the first day of October, one thousand eight hundred and seventy-five, no cargo, of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts, or nut kernels, shall be carried on board any British ship, unless such grain, corn, rice, paddy, pulse, nuts, or nut kernels, be contained in bags, sacks, or barrels, or secured from shifting by boards, bulkheads, or otherwise. This section shall not apply to any grain shipped previous to the first of October, one thousand eight hundred and seventy-

The master of any British ship who shall knowingly allow any cargo or part of a cargo to be shipped therein for carriage contrary to the provisions of this section, shall for every such offence incur a penalty not exceeding two hundred pounds.

Penalties for sending unsea

- 4. Section eleven, of the Merchant Shipping Act, 1871, vorthy ships shall be repealed, and in lieu thereof it shall be enacted:
  - (1.) Every person who sends a ship to sea in such unseaworthy state that the life of any person would be likely to be thereby endangered, and the managing owner of any British ship so sent to sea from any port in the United Kingdom, shall be guilty of a misdemeanour, unless he prove that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence in the same manner as any other witness:
  - (2.) Every person who attempts, or is party to any attempt, to send to sea any ship in such unseaworthy state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he give such proof as aforesaid; and, for the purpose of giving such proof, such person may give evidence as aforesaid:

- (3.) Every master of a British ship who knowingly takes the same to sea in such unseaworty state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence as aforesaid:
- (4.) The owner of every British ship shall from time to time register, at the custom house of the port in the United Kingdom at which such ship is registered, the name of the managing owner of such ship, and if there be no managing owner, then of the person to whom the management of the ship is entrusted by and on behalf of the owner; and in case the owner fail or neglect to register the name of such managing owner or manager as aforesaid, he shall be liable, or if there be more owners than one, each owner shall be liable, in proportion to his interest in the ship, to a penalty not exceeding in the whole five hundred pounds each time that the said ship leaves any port in the United Kingdom, after the first day of November, one thousand eight hundred and seventy-five, without the name be duly registered as aforesaid:
- (5.) The term "managing owner" in subsection one shall include every person so registered as managing owner or as having the management of the ship for and on behalf of the owner:
- (6.) No prosecution under this section shall be instituted except by or with the consent of the Board of Trade:
- (7.) No misdemeanour under this section shall be punishable upon summary conviction, provided that the repeal enacted by this section shall not affect any punishment incurred or to be incurred in respect of any offence against the enactment hereby repealed, or any legal proceedings in respect of any such punishment, and any such legal proceeding may be carried on as if this Act had not passed.

5. Every British ship registered on or after the first day Marking of November, one thousand eight hundred and seventy-five, shall, before registry, and every British ship registered before that day shall, on or before that day, be permanently and conspicuously marked with lines of not less than twelve inches breadth, painted longitudinally on each side amidships or as near thereto as it is practicable, and indicating the position of each deck which is above water.

The

The upper edge of each of these lines shall be level with the upper side of the deck plank next the water way at the place of marking.

The lines shall be white or yellow on a dark ground, or black on a light ground, provided that—

- (1.) This section shall not apply to ships employed in the coasting trade, or in fishing, nor to pleasure yachts; and
- (2.) If a registered British ship is not within a British port of registry at any time before the first day of November, one thousand eight hundred and seventy-five, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.

Statement of load line.

- 6. With respect to the marking of a load line on British ships, the following provisions shall have effect:
- (1.) From and after the first day of November, one thousand eight hundred and seventy-five, the owner of every British ship shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc, twelve inches in diameter, with a horizontol line, eighteen inches in length, drawn through its centre:
- (2.) The centre of this disc shall indicate the maximum load line in salt water to which the owner intends to load the ship for that voyage:
- (8.) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of customs, a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:
- (4.) If default is made in delivering this statement in the case of any ship, any officer of customs may refuse to enter the ship outwards:
- (5.) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made:

- (6.) The master of the ship shall also enter a copy of this statement in the official log book:
- (7.) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.
- 7. Any owner or master of a British ship who neglects to Penalty for cause his ship to be marked as by this Act required, or to relation to keep her so marked, and any person who conceals, removes, ships. alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars being thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

8. Where a claim of compensation, under the Merchant Proceedings Shipping Act, 1873, is made against the Board of Trade, and against the liability to pay compensation or the amount thereof is in dis-Board of Trade pute, proceedings may be taken against the Board of Trade against the by action against the principal secretary thereof as nominal Boardary defendant.

9. In every contract of service, express or implied, be- identity of tween the owner of a ship and the master or any seaman crew. thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any aggreement to the contrary, an obligation on the part of the owner of the ship, to the master, seaman, or apprentice, that the owner of the ship, his agents and servants, shall use all reasonable efforts to ensure the seaworthiness of the ship for the voyage at the commencement thereof, and to keep her in a seaworthy condition during the voyage;

Provided that nothing in this section shall make the owner of a ship liable for the death of or any injury to a master, seaman, or apprentice, belonging to any ship, when caused by the wrongful act, neglect, or default of a seaman or apprentice belonging to the same ship, in any case where he would not otherwise be so liable.

- 10. This Act may be cited as the Merchant Shipping Act, short Title. 1875, and shall be construed one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1875.
- 11. This Act shall continue in force until the first day of Duratten of October, one thousand eight hundred and seventy-six.

THE

THE FOLLOWING STATUTES OF THE DOMINION RELATING TO MER-CHANT SHIPPING AND COGNATE SUBJECTS APPLY TO ONTARIO:

81 Vict., c. 57;

An Act for the organization of the Department of Marine and Fisheries of Canada.

31 Vict., c. 58;

An Act respecting the Navigation of Canadian Waters.

31 Vict., c. 59;

An Act respecting the Inspection of Steamboats and the greater safety of Passengers by them.

32 & 33 Vict., c. 22, secs. 48-57;

These sections define and prescribe penalties for malicious injuries to vessels.

32 & 33 Vict., c. 38;

An Act respecting Inquiries and Investigations into Ship-wrecks and other matters.

32 & 38 Vict., c. 39.

An Act to amend the Act respecting the Inspection of Steamboats, and for the greater safety of passengers by them.

83 Vict., c. 39;

An Act to make Provision for Discipline on board of Canadian Government vessels.

88 Vict., c. 17;

An Act respecting Certificates to Masters and Mates of ships.

33 Vict., c. 18;

An Act to amend the Act relating to lighthouses, buoys, and beacons.

86 Vict., c. 8;

"The Carriage of Dangerous Goods Act, 1873."

86 Viot., c. 58;

An Act to amend the Acts respecting the Inspection of Steamboats.

36 VIOT.,

36 Vict., c. 55.

An Act respecting Wreck and Salvage.

36 VICT., c. 56;

An Act respecting Deck Loads.

36 VICT., c. 57;

An Act to provide for keeping order on board Passenger Steamers.

36 Vict., c. 128;

An Act relating to Shipping, and for the Registration, Inspection and Classification thereof.

37 Vict., c. 29;

An Act for the removing of obstructions by wreck and like causes in navigable waters of Canada and other purposes relative to wrecks.

37 Vict., c. 30;

An Act further to amend the "Act respecting the Inspection of Steamboats."

38 Vict., c. 27;

An Act to amend "An Act respecting the Coasting Trade of Canada."

38 Vict., c. 29;

An Act to extend certain provisions of "The Seamen's Act, 1873," to vessels employed in navigating the inland waters of Canada.

# 22 Vict., c. 20—1858.

An Act to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's Dominions in places out of the jurisdiction of such tribunals.

THEREAS it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, or proceedings pending before tribunals in Her Majesty's Dominions, in places out of the jurisdiction of such tribunals:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Where upon an application for this purpose it is made to appear to any court or judge having authority under this Act, that any court or tribunal of competent jurisdiction in Her Majesty's Dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal, and within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such comtion in relation mission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said any tribunal in court or judge by the same order, or for such court or judge, Her Majesty's or any other judge having authority under this Act, by any or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writing or other documents to be mentioned in such order, and to give all such directions as to time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Order for examination of wituesses out to any suit pending before

2. Every person examined as a witness, under any such persons giving false evidence, commission, order, or other process, as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

3. Provided always, that every person whose attendance Payment of shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

4. Provided also, that every person examined under any Power to persuch commission, order, or other process, as aforesaid, shall to answer have the like right to refuse to answer any questions tending to questions to criminate criminate himself, and other questions which a witness in himself or to produce document of the court by which, or by a judge ment. whereof, or before the judge by whom the order for examination was made, would be entitled to; that no person shall be compelled to produce, under any such order as aforesaid, any writing or other document that he would not be compellable to produce at the trial of such cause.

5. Her Majesty's Superior Courts of Common Law at Certain courte Westminster and in Dublin respectively, the Court of Session have authority in Scotland, and any Supreme Court in any of Her Majesty's under this Act. colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any Order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

6. It shall be lawful for the Lord Chancellor of Great Power to indiges to Britain, with the assistance of two of the judges of the Courts frame rules of Common Law at Westminster, so far as relates to England, effect to proand for the Lord Chancellor of Ireland, with the assistance visions of this of two of the judges of the Courts of Common Law at Dublin, so far as relates to Ireland, and two of the judges of the Court of Session, so far as relates to Scotland, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

# 22 & 23 Vict., c. 63—1859.

An Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof.

HEREAS great improvements in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof;

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Courts in one part of Her Majesty's Dominions may remit a case for the opinion in law of a Court in any other part thereof.

1. If, in any action depending in any court within Her Majesty's Dominions. it shall be the opinion of such court that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's Dominions on any point on which the law of such other part of Her Majesty's Dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such court or a judge thereof, they shall settle the questions of law arising out of the same, on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's Dominions. being one of the Superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained praying such last-mentioned court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion

opinion without hearing parties or counsel; and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court; and in order to their pronouncing such opinion, they shall be entitled to take such further procedure thereupon as to them shall seem proper.

2. Upon such opinion being pronounced a copy thereof, Opinion to be certified by an officer of such court, shall be given to each of authenticate the parties to the action by whom the same shall be required copy given. and shall be deemed and held to contain a correct record of such opinion.

3. It shall be competent to any of the parties to the action opinion to be after having obtained such certified copy of such opinion, to court making lodge the same with an officer of the court in which the action the remit. may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said court shall thereupon apply such case to such facts in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court or upon a special verdict of a jury, or the said last mentioned court shall, if it thinks fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence or conclusive evidence, as the court may think fit, of the foreign law therein stated and the said opinion shall be so submitted to the jury.

4. In the event of an appeal to Her Majesty in Council or Her Majesty in to the House of Lords in any such action, it shall be compe- House of tent to bring under the review of Her Majesty in Council or Lords, on apof the House of Lords, the opinion pronounced as aforesaid adopt or reject by any court whose judgments are reviewable by Her Majesty opinion. in Council or the House, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them as the same shall appear to them to be well founded or not in law.

5. In the construction of this Act the word "Action" shall Interpretation include every judicial proceeding instituted in any court, civil, of terms. criminal or ecclesiastical; and the words "Superior Court" shall include, in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice Chancellor, the Judge of the

Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in Scotland, the High Court of Justiciary and the Court of Session acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's Dominions, the Superior Courts of Law and Equity therein.

# 25 Vict., c. 20—1862.

An Act respecting the issue of Writs of Habeas Corpus out of England into Her Majesty's Possessions abroad.

WHEREAS it is expedient that writs of Habeas Corpus should not issue out of England into any "colony or foreign dominion of the Crown, where Her Majesty "has a lawfully established court or courts of justice having "authority to grant and issue the said writ and to ensure the "due execution thereof throughout such colony or foreign "dominion."

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Writ not to issue out of England to

1. No writ of Habeas Corpus shall issue out of England, by authority of any judge or court of justice therein, into any any colony colony or foreign dominion of the Crown, which having courts are lawfully established court or courts of justice having with anthority has a lawfully established court or courts of justice having the said writ and to insure the due execution thereof throughout such colony or dominion.

Not to affect 2. Provided that nothing in this Act contained shall affect right of appeal or interfere with any right of appeal to Her Majesty in the Council now by law existing 2. Provided that nothing in this Act contained shall affect Council now by law existing.

# 26 & 27 Vict., c. 84—1863.

An Act to confirm certain Acts of Colonial Legislatures.

66 TATHEREAS doubts are entertained respecting the validity of divers Acts passed by the Legisla-"ture of South Australia, for the purpose of altering the con-" stitution of the Legislative Council and House of Assembly "of the said colony, and respecting the power of Colonial "Legislatures to make laws for the above purpose; and it is "expedient to remove such doubts:"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act of Parliament the term "Colonial Legisla-Interpretation of terms." ture" shall mean the authority (other than Her Majesty in Council) competent to make laws for any of Her Majesty's Possessions abroad, except India, the Channel Islands, and the Isle of Man:

The term "Governor" shall mean the officer lawfully administering the Government of any colony.

2. All laws heretofore passed, or purporting to have been confirmation of certain Acts passed, by any Colonial Legislature with the object of de-of Colonial claring or altering the constitution of such Legislature, or of any branch thereof, or the mode of appointing or electing the members of the same, shall have, and be deemed to have had, from the date at which the same shall have received the assent of Her Majesty, or of the Governor of the colony on behalf of Her Majesty, the same force and effect for all purposes whatever as if the said Legislature had possessed full powers of enacting laws for the objects aforesaid, and as if all formalities and conditions, by Act of Parliament or otherwise prescribed in respect of the passing of such laws, had been duly observed.

# 28 & 29 Vict., c. 63—1865.

An Act to remove doubts as to the validity of Colonial Laws.

HEREAS doubts have been entertained respecting the validity of divers laws enacted, or purporting to have been enacted, by the Legislatures of certain of "Her Majesty's Colonies, and respecting the powers of such "Legislatures; and it is expedient that such doubts should "be removed:"

Be it hereby enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:"

Interpretation "Colony."

1. The term "colony" shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a legislature as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty, under or by virtue of any Act of Parliament for the government of India:

"Legislature."
"Colonial Legislature"

The terms "Legislature" and "Colonial Legislature" shall severally signify the authority (other than the Imperial Parliament or Her Majesty in Council), competent to make laws for any colony:

" Representative Legislature." The term "Representative Legislature" shall signify any Colonial Legislature which shall comprise a legislative body of which one-half are elected by the inabitants of the colony:

" Colonial Law." The term "Colonial Law" shall include laws made for any colony, either by such Legislature as aforesaid or by Her Majesty in Council:

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament:

"Governor.

The term "Governor" shall mean the officer lawfully administering the Government of any colony:

"Letters Pa-

The term "Letters Patent" shall mean letters patent under the great seal of the United Kingdom of Great Britain and Ireland.

2. Any colonial law, which is or shall be repugnant to the colonial Law to the provisions of any Act of Parliament extending to the when you are colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

3. No colonial law shall be, or be deemed to have been, Colonial Law void or inoperative on the ground of repugnancy to the law for repugof England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order or regulation, as aforesaid.

4. No colonial law, passed with the concurrence of or colonial Law assented to by the Governor of any colony, or to be hereafter when now v so passed or assented to, shall be, or be deemed to have been, tency with invoid or inoperative by reason only of any instructions with reference to such law, or the subject thereof, which may have been given to such Governor, by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorising such Governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent, or last mentioned instrument.

5. Every Colonial Legislature shall have, and be deemed Colonial Legislatures may at all times to have had, full power within its jurisdiction to establish, so, establish courts of judicature, and to abolish and re-constitute Courts of Law. the same, and to alter the constitution thereof, and to make provision for the administration of justice therein, and every Representative Legislature shall, in respect to the colony Representa-under its jurisdiction, have, and be deemed at all times to ture may alter have had, full power to make laws respecting the constitution. tion, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required, by any Act of Parliament, letters patent, Order in Council, or colonial law, for the time being in force in the colony.

6. The certificate of the clerk or other proper officer of a certified colegislative body in any colony to the effect that the document laws to be evito which it is attached is a true copy of any colonial law they are pro-assented to by the Governor of such colony, or of any bill perly passed. reserved for the signification of Her Majesty's pleasure by the said Governor, shall be prima facie evidence that the document so certified is a true copy of such law or bill, and as the case may be, that such law has been duly and properly passed and assented to, or that such bill has been duly and properly passed and presented to the Governor; and any proclamation, purporting to be published by authority of the Governor.

Governor, in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid, shall be prima facie evidence of such disallowance or assent.

(Section 7 merely rendered valid certain Acts of the Legislature of South Australia.)

# 28 & 29 Vict., c. 64—1865.

An Act to remove doubts respecting the validity of certain marriages contracted in Her Majesty's Possessions abroad.

THEREAS laws have from time to time been made by the Legislatures of divers of Her Majesty's "Possessions abroad, for the purpose of establishing the "validity of certain marriages previously contracted therein, "but doubts are entertained whether such laws are in all "respects effectual for the aforesaid purpose beyond the limits "of such possessions:"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Colonial laws marriages to have effect throughout Her Majesty's Dominions.

1. Every law made or to be made by the Legislature of the validity of any such possession as aforesaid, for the purpose of establishing the validity of any marriage or marriages contracted in such possession, shall have, and be deemed to have had, from the date of the making of such law, the same force and effect for the purpose aforesaid within all parts of Her Majesty's Dominions as such law may have had, or may hereafter have, within the possession for which the same was made; provided that nothing in this law contained shall give any effect or validity to any marriage unless at the time of such marriage both of the parties thereto were, according to the law of England, competent to contract the same.

Definition of Legislature.

2. In this Act the word "Legislature" shall include any authority competent to make laws for any of Her Majesty's possessions abroad, except the Parliament of the United Kingdom and Her Majesty in Council.

(See B.N.A. Act, 1867, s. 92, ss. 12; and see the Provincial Acts relating to the solemnization of marriage.)

28 & 29

# 28 & 29 Vict., c. 116—1865.

An Act to explain the Foreign Jurisdiction Act.

Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this Parliament assembled, and by authority of the same, as follows:

- 1. In the Foreign Jurisdiction Act (that is to say, the Act Meaning of British Colony of the session of the sixth and seventh years of Her Majesty's in 6 & 7 V., e. 24. Reign, chapter ninety-four, to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual), the term "British Colony," includes, and shall be construed to include, any of Her Majesty's possessions out of the United Kingdom.
- 2. This Act may be cited as the Foreign Jurisdiction Act short Title. Amendment Act, 1865.

# 29 & 30 Vict., c. 87—1866.

An Act to amend the Foreign Jurisdiction Act.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. It shall be lawful for Her Majesty in Council, from time power for to time, if and when it seems fit, by order in Council made Queen in Council under the Foreign Jurisdiction Acts, to assign to or confer jurisdiction to on any court in any of Her Majesty's Possessions out of the tab Doulnions United Kingdom any jurisdiction, civil or criminal, original Foreign Jurisor appellate, which Her Majesty in Council might lawfully diction Acte. by any such order assign to or confer on any court in any country or place out of Her Majesty's Dominions within which Her Majesty has power or jurisdiction, and from time

to time by any such order to make such provisions and regulations as to Her Majesty in Council seem meet respecting the exercise of the jurisdiction so assigned or conferred, and respecting the enforcement and execution of the judgments, decrees, orders, or sentences of any such court, and respecting appeals therefrom; and every such order shall be effectual to vest in the court to which it relates the jurisdiction expressed to be thereby assigned or conferred, and the same shall be exercised subject and according to the regulations and provisions aforesaid.

Short Title 6 & 7 V., c. 94. 2. This Act may be cited as the "Foreign Jurisdiction Act Amendment Act, 1866," and the Act of the session of the sixth and seventh years of Her Majesty's Reign (chapter ninety-four) "to remove doubts as to the exercise of power "and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions and to render the same more effectual," may be cited as "The Foreign Jurisdiction Act, 1843," and that Act, and the Foreign Jurisdiction Act Amendment Act, 1865, and this Act, may be cited together and are in this Act referred to as the Foreign Jurisdiction Acts.

28 & 29 V., e. 116.

# 30 & 31 Vict., c. 3—1867.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for purposes connected therewith.

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick, have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And

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And whereas it is expedient that provision be made for the eventual admission into the Union of other part of British North America :

BRITISH NOBTH AMERICA ACT.

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

## I.—Preliminary.

- 1. This Act may be cited as The British North America short TRIe. Act, 1867.
- 2. The provisions of this Act referring to Her Majesty the Application of Queen extend also to the heirs and successors of Her Majesty, ferring to the Kings and Queens of the United Kingdom of Great Britain Queen. and Ireland.

### II.-Union.

3. It shall be lawful for the Queen, by and with the advice Declaration of of Her Majesty's Most Honorable Privy Council, to declare Union. by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this Act shall, unless it is Construction otherwise expressed or implied, commence and have effect on of subsequent and after the Union, that is to say, on and after the day ap- Act. pointed for the Union taking effect in the Queen's Proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

- 5. Canada shall be divided into four Provinces, named Four Pro-Ontario, Quebec, Nova Scotia, and New Bruswick.
- 6. The parts of the Province of Canada (as it exists at the Provinces of passing of this Act) which formerly constituted respectively Ontario and Quebec. the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New

7. The Provinces of Nova Scotic and New Brunswick shall have the same limits as at the passing of this Act.

Decennial census.

8. In the general census of the population of Canada which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

#### III.—EXECUTIVE POWER.

Declaration of executive power in the Queen.

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of

10. The provisions of this Act referring to the Governor provisions re-ferring to Gov-General extend and apply to the Governor General for the ernor General. time being of Canada, or other the chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

Constitution of Privy Council for Canada.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor General.

All powers under Acts to be exercised by Governor General with advice of Privy Council or alone.

12. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor-General, with the advice, or with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

- 13. The provisions of this Act referring to the Governor application of General in Council shall be construed as referring to the ferring to Gov-Governor-General acting by and with the advice of the error general in Council. Queen's Privy Council for Canada.
- 14. It shall be lawful for the Queen, if Her Majesty thinks Power to Her fit, to authorize the Governor General from time to time to thorize Goverappoint any person or any persons jointly or severally to be appoint his deputy or deputies within any part or parts of Canada, deputies. and in that capacity to exercise during the pleasure of the Governor General such of the powers, authorities, and functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor General himself of any power, authority, or function.

15. The command-in-chief of the land and naval militia, Command of and of all naval and military forces, of and in Canada, is so continue to hereby declared to continue and be vested in the Queen.

16. Until the Queen otherwise directs the Seat of Govern- seat of Govment of Canada shall be Ottawa.

ernment of Canada.

### IV.—LEGISLATIVE POWER.

- 17. There shall be one Parliament for Canada, consisting constitution of of the Queen, an Upper House styled the Senate, and the Canada. House of Commons.
- 18. This sec. is repealed by Imp. Act 38 & 39 V., c. 38, Privileges, &c., of Houses. and the following sec. substituted therefor:

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers, shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

- 19. The Parliament of Canada shall be called together not First Session of the Parliament later than six months after the Union.
- 39. There shall be a session of the Parliament of Canada Yearly Session once at least in every year, so that twelve months shall not of the Parlieintervene between the last sitting of the Parliament in one Canada. session and its first sitting in the next session.

## The Senate.

Number of Senators. 21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

(The Senate now includes representatives of the new Provinces of Manitoba, Prince Edward Island, and British Columbia.)

Representation of Provinces in Senate.

- 22. In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions—
  - 1. Ontario;
  - 2. Quebec;
- 3. The Maritime Provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four Senators; Quebec by twenty-four Senators; and the Maritime Provinces by twenty-four Senators, twelve thereof representing Nova Scotia, and twelve thereof representing New Brunswick.

In the case of *Quebec* each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four electoral divisions of *Lower Canada* specified in Schedule A. to chapter one of the Consolidated Statutes of *Canada*.

Qualifications of Senator.

- 23. The qualification of a Senator shall be as follows:—
- (1.) He shall be of the full age of thirty years:
- (2.) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:
- (3.) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised and possessed for his own use and benefit of lands or tenements held in franc-alleu or in roture, within the Province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages,

gages, and incumbrances due or payable out of or charged on or affecting the same:

- (4.) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities:
- (5.) He shall be resident in the Province for which he is appointed:
- (6.) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.
- **24.** The Governor General shall from time to time, in the summons of Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator.
- 25. Such persons shall be first summoned to the Senate summons of as the Queen by Warrant under Her Majesty's Royal Sign first body of Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union.
- 26. If at any time, on the recommendation of the Gover-Addition of nor General, the Queen thinks fit to direct that three or six certain cases members be added to the Senate, the Governor General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the Senate accordingly.
- 27. In case of such addition being at any time made the Reduction of Governor-General shall not summon any person to the Senate, Senate to nor-except on a further like direction by the Queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four Senators and no more.
- 28. The number of Senators shall not at any time exceed Maximum number of seventy-eight.

  Maximum number of Senators.
- 29. A Senator shall, subject to the provisions of this Act, Tenure of hold his place in the Senate for life.

  Tenure of place in Hold his place in the Senate for life.
- **30.** A Senator may by writing under his hand addressed Bostgnation of to the Governor-General resign his place in the Senate, and Senate. thereupon the same shall be vacant.
- 31. The place of a Senator shall become vacant in any of Disqualification of Senators.
- (1.) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate:

- (2.) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power:
- (3.) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:
- (4.) If he is attainted of treason or convicted of felony or of any infamous crime:
- (5.) If he ceases to be qualified in respect of property or of residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the Seat of the Government of Canada while holding an office under that Government requiring his presence there.

Summons on vacancy in Senate

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy.

Questions as to

33. If any question arises respecting the qualification of a qualifications Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment of Speaker of Senate.

34. The Governor General may from time to time, by instrument under the Great Seal of Canada, appoint a Senstor to be Speaker of the Senate, and may remove him and appoint another in his stead.

Quorum of

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in benate

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

# The House of Commons.

Constitution of House of Commons in

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.

(The number of members was increased to two hundred by Dom. Act, 35 Vict., c. 13, and the number is now two hundred and six, the new Province of Manitoba having four members, and British Columbia and Prince Edward Island six members each. while by Dom. Act, 35 Vict., c. 13, the representation of Ontario was increased to eighty-eight members, of Nova Scotia to twenty-one, and of New Brunswick to sixteen.)

- 38. The Governor-General shall from time to time, in the Summoning of Queen's name, by instrument under the Great Seal of Canada, Commons. summon and call together the House of Commons.
- 39. A Senator shall not be capable of being elected or of Senators not to sitting or voting as a member of the House of Commons.
- 40. Until the Parliament of Canada otherwise provides, Electoral districts of the Ontario, Quebec, Nova Scotia, and New Brunswick, shall, for four Provinces. the purposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows:-

#### 1.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns, enumerated in the fiirst schedule to this Act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

## 2.—QUEBEC.

Quebec shall be divided into sixty-five electoral districts. composed of the sixty-five electoral divisions into which Lower Canada is at the passing of this Act divided, under chapter two of the Consolidated Statutes of Canada, chapter seventyfive of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

#### 3.—NOVA SCOTIA.

Each of the eighteen counties of Nova Scotia shall be an electoral district. The County of Halifax shall be entitled to return two members, and each of the other counties one mem-

(See Dom. Act, 35 Vict., c. 13.)

#### 4.—NEW BRUNSWICK.

Each of the fourteen counties into which New Brunswick is divided, including the city and County of St. John, shall be an electoral district; the city of St. John shall also be a separate electoral district. Each of these fifteen electoral districts shall be entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

Continuance ment of Canada otherwise provides.

41. Until the Parliament of Canada otherwise provides, all of existing Election Laws laws in force in the several Provinces at the Union relative to until Parliathe following metters or any of them, namely—the qualifies. the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

> Provided that, until the Parliament of Canada otherwise provides, at any election for a member for the House of Commons for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

Writs for first

42. For the first election of members to serve in the House of Commons the Governor General shall cause writs to be issued by such person, in such form, and addressed to such returning officers as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

As to carnal vacancier.

43. In case a vacancy in the representation in the House of Commons of any electoral district happens before the meeting of the Parliament, or after the meeting of the Parliament liament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

- 44. The House of Commons on its first assembling after a As to Election general election shall proceed with all practicable speed to House of Comelect one of its members to be Speaker.
- 45. In case of a vacancy happening in the office of Speaker As to filling up by death, resignation, or otherwise, the House of Commons office of Speaker. shall with all practicable speed proceed to elect another of its members to be Speaker.

- 46. The Speaker shall preside at all meetings of the House Speaker to preside. of Commons.
- 47. Until the Parliament of Canada otherwise provides, in Provision in case of the absence for any reason of the Speaker from the case of absence chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall, during the continuance of such absence of the Speaker, have and execute all the powers, privileges, and duties of Speaker.
- 48. The presence of at least twenty members of the House quorum of Commons shall be necessary to constitute a meeting of the mons. House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member.
- 49. Questions arising in the House of Commons shall be voting in decided by a majority of voices other than that of the Speaker, mons. and when the voices are equal, but not otherwise, the Speaker shall have a vote.
- 50. Every House of Commons shall continue for five years Duration of from the day of the return of the writs for choosing the House of Com-House (subject to be sooner dissolved by the Governor General), and no longer.
- 51. On the completion of the census in the year one Decennial Rethousand eight hundred and seventy-one, and of each subsection adjustment of Representations. quent decennial census, the representation of the four Pro- tion. vinces shall be re-adjusted by such authority, in such manner, and from such time, as the Parliament of Canada from time to time provides, subject and according to the following
- (1,) Quebec shall have the fixed number of sixty-five members:

- (2.) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained):
- (3.) In the computation of the number of members for a Province a fractional part not exceeding one half of the whole number requisite for entitling the Province to a member shall be disregarded; but a fractional part exceeding one half of that number shall be equivalent to the whole number:
- (4.) On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one twentieth part or upwards:
- (5.) Such re-adjustment shall not take effect until the termination of the then existing Parliament.

(Such a re-adjustment was made by Dom. Act, 35 Vict., c. 13, after the census of 1871.)

Increase of number of mons.

52. The number of members of the House of Commons House of Com. may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

# Money Votes; Royal Assent.

Appropriation and tax bills.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Recommendstion of money votes.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor General in the session in which such vote, resolution, address, or bill is proposed.

Royal s ssent to bills, &c

55. Where a bill passed by the Houses of Parliament is presented to the Governor General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

56. Where the Governor General assents to a bill in the Displowance Queen's name, he shall by the first convenient opportunity council of Act send an authentic copy of the Act to one of Her Majesty's assented to by principal Secretaries of State, and if the Queen in Council General. within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State on which the Act was received by him) being signified by the Governor General, by speech or message to each of the Houses of the Parliament or by proclamation, shall annul the Act from and after the day of such signification.

57. A bill reserved for the signification of the Queen's signification pleasure shall not have any force unless and until within two of Queen's pleasure on years from the day on which it was presented to the Governor bill reserved. General for the Queen's assent, the Governor General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message, or proclamation, shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

## V.—Provincial Constitutions.

#### Executive Power.

- 58. For each Province there shall be an officer, styled the Appointment Lieutenant Governor, appointed by the Governor General in Governor of Council by instrument under the Great Seal of Canada.
- 59. A Lieutenant Governor shall hold office during the Tenure of pleasure of the Governor General; but any Lieutenant emant Gov-Governor appointed after the commencement of the first ses-ernor. sion of the Parliament of Canada shall not be removeable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and, if not, then within one week after the commencement of the next session of the Parliament.

60. The salaries of the Lieutenant Governor shall be fixed Salaries of Lieutenant and provided by the Parliament of Canada.

Oaths, &c., of Lieutenant Governor. 61. Every Lieutenant Governor shall, before assuming the duties of his office, make and subscribe before the Governor General or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor General.

Application of provisions referring to Lieutenant Governor.

62. The provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the time being of each Province or other the chief executive officer or administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

Appointment of Executive officers for Ontario and Quebec. 63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec, the Speaker of the Legislative Council and the Solicitor General.

Executive Government of Nova Scotia and New Brunswick.

64. The Constitution of the executive authority in each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

Powers to be exercised by Lieutenant Governor of Ontario or Quebec with advice or alone.

65. All powers, authorities, and functions which under Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the advice, or with the advice and consent of, or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutensnt Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant Application of Governor in Council shall be construed as referring to the ferring to Lieutenant Governor of the Province acting by and with the Lieutenant Governor in advice of the Executive Council thereof.

- 67. The Governor General in Council may from time to Administratime appoint an administrator to execute the office and func-sence, etc., of tions of Lieutenant Governor during his absence, illness, or Lieutenant Governor. other inability.
- 68. Unless and until the Executive Government of any Seats of Province otherwise directs with respect to that Province, the vernments. Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Scotia, the city of Halifax: and of New Brunswick, the city of Fredericton.

# Legislative Power.

### 1.—ONTARIO.

- 69. There shall be a Legislature for Ontario consisting of Legislature for Ontario. the Lieutenant Governor and of one House, styled the Legislative Assembly of Ontario.
- 70. The Legislative Assembly of Ontario shall be com-Electoral posed of eighty-two members, to be elected to represent the districts. eighty-two electoral districts set forth in the first schedule to this Act.

(The number of members has been increased to eighty-eight by Ontario Act, 38 Vict., c. 2.)

### 2.—QUEBEC.

- **71.** There shall be a Legislature for Quebec consisting of Legislature for the Lieutenant Governor and of two Houses, styled the Legis-Quebec. lative Council of Quebec and the Legislative Assembly of Quebec.
- 79. The Legislative Council of Quebec shall be composed constitution of of twenty-four members, to be appointed by the Lieutenant Council. Governor in the Queen's name, by instrument under the Great Seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this Act referred to, and each holding office for the term of his life. unless the Legislature of Quebec otherwise provides under the provisions of this Act.
- 73. The qualifications of the Legislative Councillors of qualification Quebec shall be the same as those of the Senators of Quebec. Councillors.

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74. The place of a Legislative Councillor of Quebec shall become vacant in the cases, mutatis mutandis, in which the place of Senator becomes vacant.

BRITISH NORTH AMERICA ACT.

Vacancies.

75. When a vacancy happens in the Legislative Council of Quebec by resignation, death, or otherwise, the Lieutenant Governor, in the Queen's name, by instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

Questions as to ecancies, &c.

**76.** If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of Legislative Council.

77. The Lieutenant Governor may from time to time, by instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

Ouerum of egislative Commell.

78. Until the Legislature of Quebec otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in Legislative Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution of Legislative Assembly of Quebec.

SO. The Legislative Assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of ' Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

## 3.—ONTARIO AND QUEBEC.

First Session of Legislatures

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the union.

89. The Lieutenant Governor of Ontario and of Quebec Summoning of shall from time to time, in the Queen's name, by instrument Assemblies. under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario or of Quebec otherwise Restriction provides, a person accepting or holding in Ontario or in holders of Quebec any office, commission, or employment permanent or offices. temporary, at the nomination of the Lieutenant Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eiigible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

(Ont. Acts 32 V., c. 4, and 35 V., c. 5, were passed with the view of further securing the independence of the Legislative Assemblu.

84. Until the Legislatures of Ontario and Quebec respection Continuance tively otherwise provide, all Laws which at the Union are in election laws. force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections, may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to election of members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that until the Legislature of Ontario otherwise provides, at any election for a member of the Legislative Assembly of Ontario for the District of Algoma, in addition to persons qualified by the Law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

(See Provincial Acts respecting Elections.)

Duration of Legislative Assemblies

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Session of Legislature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one Session and its first sitting in the next session.

Speaker, Quorum, &c. 87. The following provisions of this Act respecting the Hguse of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say, the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

### 4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions of Legislatures and New Brunswick.

88. The Constitution of the Legislature of each of the of Nova Scotia Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

# 5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections.

89. Each of the Lieutenant Governors of Ontario, Quebec, and Nova Scotia, shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the Governor General directs, and so that the first election of member of Assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that electoral district.

## 6.—THE FOUR PROVINCES.

90. The following provisions of this Act respecting the Legislatures of Parliament of Canada, namely,—the provisions relating to pecting money appropriation and tax bills, the recommendation of money votes. votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

### VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

## Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the ad-Legislative vice and consent of the Senate and House of Commons, to authority of make laws for the peace, order, and good government of Canada. Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:-

- 1. The public debt and property.
- 2. The regulation of trade and commerce.
- 8. The raising of money by any mode or system of taxation.
- 4. The borrowing of money on the public credit.
- 5. Postal service.
- 6. The census and statistics.
- 7. Militia, military and naval service, and defence.
- 8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.
- 9. Beacons, buoys, lighthouses, and Sable Island.
- 10. Navigation and shipping.
- 11. Quarantine and the establishment and maintenance of marine hospitals.

- 12. Sea Coast and inland fisheries.
- 13. Ferries between a Province and any British or foreign country or between two Provinces.
- 14. Currency and coinage.
- 15. Banking, incorporation of banks, and the issue of paper money.
- 16. Savings banks.
- 17. Weights and measures.
- 18. Bills of exchange and promissory notes.
- 19. Interest.
- 20. Legal tender.
- 21. Bankruptcy and insolvency.
- 22. Patents of invention and discovery.
- 28. Copyrights.
- 24. Indians, and lands reserved for the Indians.
- 25. Naturalization and aliens.
- 26. Marriage and divorce.
- 27. The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
- 28. The establishment, maintenance, and management of penitentiaries.
- 29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive

## Exclusive Powers of Provincial Legislatures.

93. In each Province the Legislature may exclusively make exclusive Pre laws in relation to matters coming within the classes of sub-vincial Legislects next hereinafter enumerated, that is to say,—

- 1. The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant Governor.
- 2. Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.
- 3. The borrowing of money on the sole credit of the Province.
- 4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
- 5. The management and sale of the public lands belonging to the Province and of the timber and wood thereon.
- 6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
- 7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
- 8. Municipal institutions in the Province.
- 9. Shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for Provincial, local, or municipal purposes.
- 10. Local works and undertakings other than such as are of the following classes:
  - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province:
  - b. Lines of steam ships between the Province and any British or foreign country:

- c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of *Canada* to be for the general advantage of *Canada* or for the advantage of two or more of the Provinces.
- 11. The incorporation of companies with Provincial objects.
- 12. The solemnization of marriage in the Province.
- 13. Property and civil rights in the Province.
- 14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.
- 15. The imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
- 16. Generally all matters of a merely local or private nature in the Province.

### Education.

#### Legislation respecting education.

- 93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:
- (1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union:
- (2.) All the powers, privileges, and duties at the union by law conferred and imposed in *Upper Canada* on the separate schools and school trustees of the Queen's Roman catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's protestant and Roman catholic subjects in *Quebec*:
- (8.) Where in any Province a system of separate or dissentient schools exists by law at the union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any Provincial authority affecting any

right

right or privilege of the protestant or Roman catholic minority of the Queen's subjects in relation to education:

(4.) In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament Legislation for of Canada may make provision for the uniformity of all or Laws in three any of the laws relative to property and civil rights in Onta- Provinces. rio, Nova Scotia, and New Brunswick, and of the procedure of all or any of the courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

# Agriculture and Immigration.

95. In each Province the Legislature may make laws in concurrent relation to agriculture in the Province, and to immigration Powers of Legislation into the Province; and it is hereby declared that the Parlia-respecting Agriculture, &c. ment of Canada may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

#### VII.---JUDICATURE.

96. The Governor General shall appoint the Judges of the Appointment Superior, District, and County Courts in each Province, ex- of Judges. cept those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, &c. 97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the courts in those Provinces, are made uniform, the Judges of the courts of those Provinces appointed by the Governor General shall be selected from the respective bars of those Provinces.

Selection of Judges in Quebec. 98. The Judges of the courts of Quebec shall be selected from the bar of that Province.

Tenure of office of Judges of Superior Courts.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Salaries, &c., of Judges. 100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick,) and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

General court of appeal, &c.;

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a General Court of Appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

# VIII .- REVENUES; DEBTS; ASSETS; TAXATION.

Creation of consolidated revenue fund.

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one consolidated revenue fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

Expenses of collection, &c.

103. The consolidated revenue fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of Previncial public debts.

104. The annual interest of the public debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the union shall form the second charge on the consolidated revenue fund of Canada.

- 165. Unless altered by the Parliament of Canada, the salary of Gov-salary of the Governor General shall be ten thousand pounds ernor General. sterling money of the United Kingdom of Great Britain and Ireland, payable out of the consolidated revenue fund of Canada, and the same shall form the third charge thereon.
- 106. Subject to the several payments by this Act charged Appropriation on the consolidated revenue fund of Canada, the same shall time. be appropriated by the Parliament of Canada for the public service.

- 107. All stocks, cash, banker's balances, and securities Transfer of for money belonging to each Province at the time of the stocks, &c. union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the union.
- 108. The public works and property of each Province, Transfer of enumerated in the third schedule to this Act, shall be the property in property of Canada.
- 109. All lands, mines, minerals, and royalties belonging Property in Social and New lands, mines, to the several Provinces of Canada, Nova Scotia, and New land Brunswick at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick, in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.
- 110. All assets connected with such portions of the public Assets condebt of each Province as are assumed by that Province shall provincial belong to that Province.
- 111. Canada shall be liable for the debts and liabilities of canada to be liable for Pro-vincial debts. each Province existing at the union.
- 112. Ontario and Quebec conjointly shall be liable to Debts of Onta-Canada for the amount (if any) by which the debt of the quebec. Province of Canada exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.
- 113. The assets enumerated in the fourth schedule to this Assets of Act belonging at the union to the Province of Canada shall Ontario and Quebec. be the property of Ontario and Quebec conjointly.
- 114. Nova Scotia shall be liable to Canada for the amount Debt of Nova (if any) by which its public debt exceeds at the union eight Bootla. million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

Debt of New Brunswick. 115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

Payment of interest to Nova Scotia and New Brunswick.

116. In case the public debts of Nova Scotia and New Brunswick do not at the Union amount to eight million and seven million dollars respectively, they shall respectively receive by half-yearly payments in advance from the Government of Canada interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

Provincial public property. 117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of *Canada* to assume any lands or public property required for fortifications or for the defence of the country.

Grants to Provinces. 118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures:

				Dollars.
-	•	-	•	Eighty thousand.
-	•	-	•	Seventy thousand.
-	-	-	-	Sixty thousand.
-	-	-	-	Fifty thousand.

Two hundred and sixty thousand;

and an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grant shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

Further grant to New Brunswick.

119. New Brunswick shall receive by half-yearly payments in advance from Canada for the period of ten years from the union an additional allowance of sixty-three thousand dollars per anuum; but as long as the public debt of that Province remains under seven million dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

- 190. All payments to be made under this Act, or in dis- Form of paycharge of liabilities created under any Act of the Provinces ments. of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor General in Council.
- 191. All articles of the growth, produce, or manufacture, Canadian maof any one of the Provinces shall, from and after the union, nufactures, &c. be admitted free into each of the other Provinces.
- 199. The customs and excise laws of each Province Continuance shall, subject to the provisions of this Act, continue in force of customs and until altered by the Parliament of Canada.
- 193. Where customs duties are, at the union, leviable on Exportation any goods, wares, or merchandises in any two Provinces, and important and those goods, wares, and merchandises may, from and after tween two Provinces. the union, be imported from one of those Provinces into the other of them on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

- 194. Nothing in this Act shall affect the right of New Lumber dues Brunswick to levy the lumber dues provided in chapter in New Brunsfifteen of title three of the revised statutes of New Brunswick, or in any Act amending that Act before or after the union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.
- 125. No lands or property belonging to Canada or any Exemption of Province shall be liable to taxation.
- 126. Such portions of the duties and revenues over which Provincial the respective Legislatures of Canada, Nova Scotia, and New revenue fund. Brunswick had before the union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one consolidated revenue fund to be appropriated for the public service of the Province.

## IX.—MISCELLANEOUS PROVISIONS.

### General.

127. If any person being at the passing of this Act a As to Legislamember of the Legislative Council of Canada, Nova Scotia, tive council-or vinces becom-ing senators. or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate shall thereby vacate his seat in such Legislative Council.

Oath of alle-giance, &c.

198. Every member of the Senate or House of Commons of Canada shall, before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant Governor of the Province or some person authorized by him, the oath of allegiance contained in the fifth schedule to this Act; and every member of the Senate of Canada and every member of the Legislative Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor General, or some person authorized by him, the declaration of qualification contained in the same schedule.

Continuance of existing laws, courts, officers, &c.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick, at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative, and ministerial, existing therein at the union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdon of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliaor of that Legislature under this Act.

Transfer of officers to

130. Until the Parliament of Canada otherwise provides, the officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the union had not been made.

ppointment of new officers.

131. Until the Parliament of Canada otherwise provides. the Governor General in Council may from time to time appoint

appoint such officers as the Governor General in Council deems necessary or proper for the effectual execution of this Act.

139. The Parliament and Government of Canada shall Treaty obligahave all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

133. Either the English or the French language may be Use of English and French used by any person in the debates of the Houses of the Par-languages. liament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this Act, and in or from all or any of the courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

### Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec other-Appointment wise provides, the Lieutenant Governors of Ontario and Quebec acers for Ontamay each appoint under the great seal of the Province the rio and Quebec. following officers, to hold office during pleasure, that is to say, -the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor General, and may, by order of the Lieutenant Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the Legislature of Ontario or Quebec otherwise Powers, duties, provides, all rights, powers, duties, functions, responsibilities, tive officers. or authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any law, statute or ordinance of Upper Canada, Lower Canada,

or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner

Great seals.

of Public Works.

136. Until altered by the Lieutenant Governor in Council, the Great Seals of *Ontario* and *Quebec* respectively shall be the same, or of the same design, as those used in the Provinces of *Upper Canada* and *Lower Canada* respectively before their union as the Province of *Canada*.

Construction of temporary Acts.

137. The words "and from thence to the end of the then next" ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of Canada not expired before the union, shall be construed to extend and apply to the next session of the Parliament of Canada, if the subject matter of the Act is within the powers of the same, as defined by this Act, or to the next sessions of the Legislatures of Ontario and Quebec respectively, if the subject matter of the Act is within the powers of the same as defined by this Act.

As to errors in

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter, or thing, shall not invalidate the same.

As to issue of proclaw ations before Union, to commence after Union. 139. Any proclamation under the Great Seal of the Province of *Canada* issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the union had not been made.

As to issue of proclamations after Union.

140. Any proclamation which is authorized by any Act of the Legislature of the Province of Canada, to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its subject matter requires, under the Great Seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

Penitentiary

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

149. The division and adjustment of the debts, credits, Arbitration liabilities, properties, and assets of Upper Canada and Lower debts, &c. Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

143. The Governor General in Council may from time to Division of time order that such and so many of the records, books, and records documents of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The Lieutenant Governor of Quebec may from time constitution to time, by proclamation under the Great Seal of the Pro- in Quebec. vince, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

#### X .- Intercolonial Railway.

145. Inasmuch as the Provinces of Canada, Nova Scotia, Duty of Govand New Brunswick have joined in a declaration that the con- Parliament of struction of the Intercolonial Railway is essential to the con- Canada t solidation of the union of British North America, and to the herein desassent thereto of Nova Scotia and New Brunswick, and have orthod. consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement within six months after the union, of a railway connecting the River St. Lawrence with city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

#### XI.—Admission of other Colonies.

146. It shall be lawful for the Queen, by and with the Power to advice of Her Majesty's Most Honourable Privy Council, on foundland &c., addresses from the Houses of Parliament of Canada, and into the Union. from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia.

Columbia, to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen' thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

As to representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of four members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be seventy-six and their maximum number shall be eightytwo; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

#### SCHEDULES.

#### THE FIRST SCHEDULE.

# Electoral Districts of Ontario,

(The division of the Province into electoral districts has been altered by subsequent Dominion and Provincial Legislation.

#### Α.

#### EXISTING ELECTORAL DIVISIONS.

# COUNTIES.

- 1. Prescott.
- 2. Glengarry.
- 3. Stormont.
- 4. Dundas.
- 5. Russell.

- 6. Carleton.
- 7. Prince Edward.
- 8. Halton.
- 9. Essex.

RIDINGS

# RIDINGS OF COUNTIES.

- 10. North Riding of Lanark.
- 11. South Riding of Lanark.
- 12. North Riding of Leeds and North Riding of Grenville.
- 13. South Riding of Leeds.
- 14. South Riding of Grenville.
- 15. East Riding of Northumberland.
- 16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
- 17. East Riding of Durham.
- 18. West Riding of Durham.
- 19. North Riding of Ontario.
- 20. South Riding of Ontario.21. East Riding of York.
- 22. West Riding of York.
- 23. North Riding of York.
- 24. North Riding of Wentworth.
- 25. South Riding of Wentworth.
- 26. East Riding of Elgin.
- 27. West Riding of Elgin.28. North Riding of Waterloo.
- 29. South Riding of Waterloo.
- 30. North Riding of Brant.
- 31. South Riding of Brant.
- 32. North Riding of Oxford.
- 33. South Riding of Oxford.
- 34. East Riding of Middlesex.

# CITIES. PARTS OF CITIES AND TOWNS.

- 35. West Toronto.
- 36. East Toronto.
- 97. Hamilton.
- 38. Ottawa.
- 39. Kingston.
- 40. London.
- 41. Town of Brockville, with the Township of Elizabethtown thereto attached.
- 42. Town of Niagara, with the Township of Niagara thereto attached.
- 43. Town of Cornwall, with the Township of Cornwall thereto attached.

В.

#### NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of Algona.

The County of Bruce, divided into two Ridings, to be called respectively the North and South Ridings:—

- 45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
- 46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of Huron, divided into two Ridings, to be called respectively the North and South Ridings:

- 47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
- 48. The South Riding to consist of the Town of Goderich, and the Township of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings:—

- 49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
- 50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.
  - [The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]
- 51. The County of Lameton to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

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- 52. The County of Kent to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
- 53. The County of Bothwell to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent.

The County of GREY divided into two Ridings to be called respectively the South and North Ridings:-

- 54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
- 55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of Perth divided into two Ridings, to be called respectively the South and North Ridings:—

- 56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
- 57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of Wellington divided into three Ridings, to be called respectively North, South and Centre Ridings:-

- 58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Monnt Forest.
- 59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
- 60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

- 61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
- 62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
- 68. The County of Haldmand to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Raynham, Walpole, and Dunn.
- 64. The County of Monck to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland.)
- 65. The County of Lincoln to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.
- 66. The County of Welland to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
- 67. The County of Peel to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
- 68. The County of Cardwell to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe.)

The County of Simcon, divided into Two Ridings, to be called respectively the South and North Ridings:—

- 69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Inisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.
- 70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

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The County of Victoria, divided into two Ridings, to be called respectively the South and North Ridings.

- 71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
- 72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying in the north of the said North Riding.

The County of Peterborough, divided into two Ridings, to be called respectively the West and East Ridings:—

- 73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
- 74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any surveyed Townships lying to the North of the said East Riding.

The County of Hastings, divided into three Ridings, to be called respectively the West, East, and North Ridings:—

- 75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
- 76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
- 77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any surveyed Townships lying to the North of the said North Riding.
- 78. The County of Lennox, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island and the Village of Napanee.

- 79. The County of Addington to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.
- 80. The County of Frontenac to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings:-

- 81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.
- 82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every town and incorporated village existing at the union, not specially mentioned in this schedule, is to be taken as part of the County or Riding within which it is locally situate.

#### THE SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

(See the Dom. Act, 35 V., c. 13.)

#### COUNTIES OF-

Pontiac. Ottawa. Argenteuil. Huntington. Missisquoi. Brome. Shefford.

Stanstead.

Compton. Wolfe and Richmond.

Megantic.

Town of Sherbrooke.

# -THE THIRD SCHEDULE.

# Provincial Public Works and Property to be the Property of Canada.

Canals, with lands and water power connected therewith.

2. Public harbours.

Lighthouses and piers, and Sable Island.
 Steamboats, dredges, and public vessels.

5. Rivers and lake improvements.

6. Railways, and railway stocks, mortgages, and other debts due by railway companies.

7. Military roads.

8. Custom houses, post offices, and all other public buildings, except such as the Government of Canada appropriate for the use of the Provincial Legislatures and Governments.

Property transferred by the Imperial Government, and known as Ordnance property.

 Armouries, drill sheds, military clothing, and munitions of war, and lands set apart for general public purposes.

#### THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.

Lunatic Asylums.

Normal School. Court Houses.

in

Aylmer.

Lower Canada.

Montreal.

Kamouraska.

Law Society, Upper Canada.

Montreal Turnpike Trust.

University Permanent Fund.

Royal Institution.

Consolidated Municipal Loan Eund, Upper Canada.

Consolidated Municipal Loan Fund, Lower Canada.

Agricultural Society, Upper Canada.

Lower Canada Legislative Grant.

Quebec Fire Loan.

Temiscouata Advance Account.

Quebec Turnpike Trust.

Education—East.

Building and Jury Fund, Lower Canada.

Municipalities Fund.

Lower Canada Superior Education Income Fund.

THE

#### THE FIFTH SCHEDULE.

### Oath of Allegiance.

I, A. B. do swear, that I will bear faithful and bear true allegiance to Her Majesty Queen Victoria.

NOTE.—The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.

# Declaration of Qualification.

I, A. B. do declare and testify, that I am by law duly qualified to be appointed a member of the Senate of Canada [or as the case may be], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [or seised or possessed for my own use and benefit of lands or tenements held in franc-alleu or roture (as the case may be),] in the Province of Nova Scotia [or as the case may be] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the Senate of Canada [or as the case may be], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

# 31 & 32 Vict., c. 29—1868.

An Act to amend the Law relating to Medical Practitioners in the Colonies.

THEREAS by the thirty-first section of "The Medical Act," passed in the session holden in the twenty-first and twenty-second years of Her Majesty, chapter ninety, it is enacted as follows: "Every person registered under this "Act shall be entitled, according to his qualification or qua-"lifications, to practice medicine or surgery, or medicine and "surgery, as the case may be, in any part of Her Majesty's "Dominions, and to demand and recover in any court of law, "with full costs of suit, reasonable charges for professional "aid, advice, and visits, and the cost of any medicines or "other medical or surgical appliances rendered or supplied by him to his patients:" And whereas it is expedient to amend the said enactment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

- 1. This Act may be cited as "The Medical Act Amendment short Title. Act, 1868."
- 2. The term "colony" shall in this Act include all of Her Interpretation Majesty's Possessions abroad, in which there shall exist a of Act. Legislature as hereinafter defined, except the Channel Islands and the Isle of Man.

The term "Colonial Legislature" shall signify the authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony.

3. Every Colonial Legislature shall have full power from Power to Colotime to time to make laws for the purpose of enforcing the tures to enregistration within its jurisdiction of persons who have been force registration of persons registered under "The Medical Act," anything in the said registered under the Act to the contrary notwithstanding: Provided, however, Medical Act that any person who has been duly registered under "The Medical Act" shall be entitled to be registered in any colony, upon payment of the fees (if any) required for such registration, and upon proof, in such manner as the said Colonial Legislature shall direct of his registration under the said Act.

# 31 & 32 Vict., c. 37—1868.

EVIDENCE.

An Act to amend the Law relating to Documentary Evidence in certain cases.

THEREAS it is expedient to amend the law relating to evidence: Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:--

Short Title.

1. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of prov-ing certain documents.

- 2. Prima facie evidence of any proclamation, order, or regulation, issued before or after the passing of this Act by Her Majesty or by the Privy Council; also, of any proclamation, order, or regulation, issued before or after the passing of this Act by or under the authority of any such department of the Government or officer, as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or in any of the modes hereinafter mentioned; that is to say:
- (1.) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.
- (2.) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or, where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the Legislature of such British colony or possession.
- (3.) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the Lords or others of the Privy Council, and in the case of any proclamation, order, or regulation, issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print or partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

- 3. Subject to any law that may be from time to time made Act to be in by the Legislature of any British colony or possession, this force in colonact shall be in force in every such colony and possession.
- 4. If any person commits any of the offences following, Panishment that is to say,—
- (1.) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the authority of the Legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or,
- (2.) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

5. The following words shall in this Act have the meaning Definition of hereinafter assigned to them, unless there is something in the terms. context repugnant to such construction; (that is to say),

"British colony and possession" shall for the purposes of "British this Act include the Channel Islands, the Isle of Man, and possessions." such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India and all other Her Majesty's Dominions.

"Legislature" shall signify any authority other than the "Legislature." Imperial Parliament or Her Majesty in Council competent to make laws for any colony or possession.

"Privy Council" shall include Her Majesty in Council and "Privy Counthe Lords and others of Her Majesty's Privy Council, or any "I."

of them, and any Committee of the Privy Council that is not specially named in the schedule hereto.

" Government Printer."

"Government printer" shall mean and include the printer to Her Majesty, any printer purporting to be the printer authorized to print the Statutes, Ordinances, Acts of State, or other public Acts of the Legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession.

" Gazette."

"Gazette" shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes.

Act to be cumulative. • 6. The provisions of this Act shall be deemed to be in addition to, and not in derogation of any powers of proving documents given by any existing Statute or existing at common law.

#### SCHEDULE.

Column 1.	Column 2.
Name of Department or Officer.	Name of Certifying Officer.
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the Office of Lord High Admiral.	Any of the Commissioners for executing the Office of Lord High Admiral or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board or any Secreta- ry or Assistant Secretary of the said Board.
The Poor Law Board.	Law Board or any S ry or Assistant Se

# 32 Vict., c. 10—1869.

An Act for authorizing the Removal of Prisoners from one Colony to another for the purposes of Punishment.

WHEREAS it is expedient to amend the law relating to the removal of prisoners from one colony to another for the purposes of punishment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1. This Act may be cited for all purposes as "The Colonial Prisoners Removal Act, 1869."
  - 2. For the purposes of this Act:

Definition of

The term "colony" shall not include any place within the "colony." United Kingdom, the Isle of Man, or the Channel Islands, or within such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, but shall include any plantation, territory, or settlement, situate elsewhere within Her Majesty's Dominions, and subject to the same local Government; and for the purposes of this Act all plantations, territories, and settlements, under a central Legislature, shall be deemed to be one colony under the same local Government.

The term "Governor" shall include the officer for the time Governor., being administering the Government of any colony.

The term "Legislative body" shall mean any House of "Legislative Assembly or other body of persons having legislative body."

powers in the colony, and where such body of persons consists of two separate Houses it shall include both Houses, and where there are local Legislative bodies as well as a central Legislative body shall mean the central Legislative body only.

3. The fourth section of the Act, passed in the sixth year sect. 4 of 6 G 4, of the reign of his late Majesty King George the Fourth, intituled: "An Act for punishing offences committed by trans"ports kept to labour in the colonies, and better regulating
"the

"the powers of justices of the peace in New South Wales," is hereby repealed, except so far as may be necessary for supporting or continuing any proceedings taken thereunder.

Prisoners may be removed

4. Any two colonies may, with sanction of an Order of Her Majesty in Council, agree for the removal of any prisonfor purposes of ers under sentence or order of transportation, imprisonment, punishment. Or nenal servitude from an of transportation, imprisonment, or penal servitude, from one of such colonies to the other for the purpose of their undergoing in such other colony the whole or any part of their punishment, and for the return of such prisoners to the former colony, at the expiration of their punishment, or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies.

> The sanction of the Order of Her Majesty in Council may be obtained, in the case of a colony having a Legislative body, on an address of such body to Her Majesty, and in the case of any colony not having a Legislative body, on an address of the Governor of such colony; and such sanction shall be in force as soon as such Order in Council has been published in the colony to which it relates.

> The agreement of any one colony with another shall for the purposes of this Act be testified by a writing under the hand of the Governor of such colony.

Bemoval of prisoners to be

5. Where the sanction of Her Majesty has been given to any such agreement as aforesaid, relating to the removal of prisoners from one colony to another for the purpose of underdergoing their punishment, any prisoners under sentence or order of transportation, imprisonment, or penal servitude, may be removed from such one colony to the other under the authority of a warrant signed by the Governor and addressed to the master of any ship, or any other person or persons; and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to such other colony, and to deliver him when there into the custody of any authority designated in such warrant or empowered by the Governor of such last mentioned colony to receive such prisoner.

Prisoner in legal custody during re-moval.

6. Every prisoner shall, from the time of leaving his prison in one colony to the time of his reaching his prison in the other colony, be deemed to be in the legal custody of the person or persons empowered to remove him, and to be subject to the same restraint, and, in the event of misbehaviour, to the same punishment as if he had continued in prison, and as if the person or persons empowered to remove him were the gaoler or gaolers of such prison; and if he escape or attempt to escape from such custody, such prisoner, and every every person aiding or attempting to aid him in such escape, shall be subject to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from prison.

A prison shall mean any place of confinement or any place where the prisoners undergo punishment.

Any person punishable under this section may be tried and punished either in the colony from which the prisoner is being removed, or in the colony to which he is being removed; and the law applicable to such person shall be the law of the colony in which he is tried.

7. Every prisoner shall, upon his delivery to the person Liability of having lawful authority to receive him in the colony to which colony to he is removed, be subject within such colony to the same laws which he is removed. and regulations, and shall be dealt with ineall respects in the same manner, as if he had been tried and received the same sentence in such colony as the sentence which has been passed on him in the colony from which he is removed.

S. And whereas from time to time divers prisoners have Bemovals been removed from one of Her Majesty's colonies to another, made to be and doubts have been entertained whether such removals valid for all purposes. were legal, and how far such prisoners could be legally dealt with in the colonies to which they have been removed, and it is expedient that such doubts should be removed: Be it enacted as follows:

The removal of any prisoner heretofore made from one colony to another by or under the authority of the Governor of either of such colonies, and any act done in relation to such removal by or under such authority, and the detention, custody, and treatment in either colony of the prisoner so removed, shall be deemed to have been as lawful and effectual for all purposes whatsoever as if this Act had been passed at the time of such removal and had been in force in respect of both the colonies referred to in this section, and such removal had been duly made in pursuance of this Act.

# 33 Vict., c. 14—1870...

An Act to amend the Law relating to the legal condition of Aliens and British subjects.

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and British subjects:—Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited for all purposes as "The Naturalization Act, 1870."

### Status of Aliens in the United Kingdom.

(Sec. 2 defines the capacity of aliens as to property in the United Kingdom. As to this Province their capacity is governed by C.S.C., c. 8, s. 9.)

Power of naturalised aliens to divest themselves of their status in certain cases.

3. Where Her Majesty has entered into a convention with any foreign State to the effect that the subjects or citizens of that State who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the State referred to in such Order, who has been naturalized as a British subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration, such person shall be regarded as an alicn, and as a subject of the State to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say:—If the declarant be in the United Kingdom in the presence of any Justice of the Peace; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any scourt of civil or criminal jurisdiction, of any Justice of the Peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

4. Any person who by reason of his having been born How Britishwithin the dominions of Her Majesty is a natural-born sub-born subject, but who also at the time of his birth became under the be such. law of any foreign State a subject of such State, and is still such a subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject.

Any person who is born out of Her Majesty's Dominions of a father being a British subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

5. From and after the passing of this Act, an alien shall Alien not entitled to be tried by a jury de medietate linguæ, but de medietate shall be triable in the same manner as if he were a naturalborn subject.

### Expatriation.

6. Any British subject who has at any time before, or may at Capacity of any time after the passing of this Act, when in any foreign to renounce State and not under any disability voluntarily become naturallegiance to Her Majesty. alized in such State, shall from and after the time of his so having become naturalized in such foreign State, be deemed to be have ceased to be a British subject and be regarded as an alien: Provided,—

- 1. That where any British subject has before the passing of this Act voluntarily become naturalized in a foreign State, and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration hereinafter referred to as a declaration of British nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign State in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.
- 2. A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say:— If the declarant be in the United Kingdom in the presence of a Justice of the Peace; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any court of civil or criminal jurisdiction, of any Justice of the Peace, or of any

other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose. If out of Her Majesty's Dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

Certificate of naturalization.

7. An alien who, within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign State of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a *British* subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a *British* subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a *British* subject.

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An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

NATURALIZATION.

(As to naturalization of aliens in Canada see Dom. Acts, 31 V., c. 66, 34 V., c. 22, and 36 V., c. 36.)

8. A natural-born British subject who has become an alien Certificate of in pursuance of this Act, and is in this Act referred to as a to British statutory, alien, may, on performing the same conditions and nationality. adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion, as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nationality has been granted, shall, from the date of • the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign State of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that foreign State according to the laws thereof, or in pursuance of a treaty to that effect. The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession may be exercised by the Governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

- 9. The oath in this Act referred to as the oath of allegi- form of oath of allegiance. ance shall be in the form following; that is to say:—
- do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD."

National

National Status of Married Women and Infant Children.

National status of married wemen and infant children.

- 10. The following enactments shall be made with respect to the national status of women and children:—
- 1. A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject.
- 2. A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act.
- 3. Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the State of which the father or mother has become a subject, and not a British subject.
- 4. Where the father, or the mother being a widow, has obtained a certificate of re-admission to *British* nationality, every child of such father or mother who during infancy has become resident in the *British* Dominions with such father or mother, shall be deemed to have resumed the position of a *British* subject to all intents.
- 5. Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

(See Imp. Act, 35 & 36 V., c. 39, s. 3, post.)

# Supplemental Provisions.

Regulations as to registration.

- 11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters:—
- 1. The form and registration of declarations of British nationalty.
- 2. The form and registration of certificates of naturalization in the United Kingdom.
- 3. The form and registration of certificates of re-admission to British nationality.

- 4. The form and registration of declarations of alienage.
- 5. The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of *British* subjects who may be born or die out of Her Majest's Dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations.
- 6. The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act.
- 7. With the consent of the Treasury the imposition and application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter or add to any regulation previously made by him in pursuance of this section. Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any *British* possession, and shall not, so far as respects any other matter, be in force in any *British* possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

- 12. The following regulations shall be made with respect Regulations as to evidence under this Act:—
- 1. Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the declaration mentioned.
- 2. A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate,

or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.

- 3. A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.
- 4. Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register.
- 5. "The Documentary Evidence Act, 1868," shall apply to any regulation made by a Secretary of State in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

#### Miscellaneous.

Saving of letters of denization. 13. Nothing in this Act shall affect the grant of letters of denization by Her Majesty.

Saving as to British ships. 14. Nothing in this Act contained shall qualify an alien to be the owner of a *British* ship.

Saving of allegiance prior to expatriation.

15. Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of colonies to legislate with respect to naturalisation.

All laws, statutes and ordinances which may be duly made by the Legislature of any British possession for imparting to any person the privileges, or any of the privileges of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes or ordinances in that possession.

Definition of terms.

17. In this Act, if not inconsistent with the context or subject-matter thereof: .

"Disability"

- "Disability" shall mean the status of being an infant, lunatic, idiot, or married woman.
- "British possession" shall mean any colony, plantation, island, territory or settlement within Her Majesty's Dominions, and not within the United Kingdom, and all territories and places under one Legislature are deemed to be one British Possession for the purposes of this Act.
- "The Governor of any British Possession" shall include any person exercising the chief authority in such possession.
- "Officer in the diplomatic service of Her Majesty" shall mean any Ambassador, Minister or Charge d'Affaires, or Secretary of Legation, or any person appointed by such Ambassador, Minister, Charge d'Affaires, or Secretary of Legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty.
- "Officer in the consular service of Her Majesty" shall mean and include Consul-General, Consul, Vice-Consul and Consular-Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul and Consular Agent.

# Repeal of Acts mentioned in Schedule.

- 18. The several Acts set forth in the first and second parts repeal of Acts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—
- 1. Any right acquired or thing done before the passing of this Act.
  - 2. Any liability accruing before the passing of this Act.
- 3. Any penalty, forfeiture or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act.
- 4. The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, forfeiture or punishment as aforesaid.

#### SCHEDULE.

Note.—Reference is made to the repeal of the "whole Act" where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled "The Statutes of the "Realm; printed by command of His Majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From "original records and authentic manuscripts."

### PART I.

Acts wholly repealed, other than Acts of the Irish Parliament.

#### TITLE.

- 7 Jan. I., a. 2. An Act that all such as are to be naturalized or restored in blood shall first receive the Sacrament of the Lord's Supper. and the oath of allegiance, and the oath of supremacy.
- An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancesters, either lineal or collateral, notwithstanding their father or mother were aliens.
- 13 Geo. II., c. 7. An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in *America*.
- \*\*Mode. II., e.44. An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled "An "Act for naturalizing such foreign Protestants and others "therein mentioned, as are settled or shall settle in any of "His Majesty's Colonies in \*America\*," to other foreign Protestants who conscientiously scruple the taking of an oath.
- An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, "for naturaliz"ing such foreign Protestants and others, as are settled or
  "shall settle in any of His Majesty's Colonies in America,"
  and the other of the second year of the reign of His present
  Majesty, "for naturalizing such foreign Protestants as have
  "served or shall serve as officers or soldiers in His Majesty's
  "Royal American regiment or as engineers in America."
- An Act to prevent certain inconveniences that may happen by bills of naturalization.

An Act to declare His Majesty's natural-born subjects in- 16 Geo. III., c. heritable to the estate of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.

An Act to alter and amend an Act passed in the seventh 6 Geo. IV., c. 67. year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or re-"stored in blood shall first receive the Sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy."

An Act to amend the laws relating to aliens.

7 and 8 Vict.,

An Act for the naturalization of aliens.

10 and 11 Vict., c. 83.

(Part II. and Part III. give lists of the Acts of the Irish Parliament wholly or partly repealed.)

# 33 & 34 Vict., c. 52—1870.

An Act for amending the Law relating to the Extradition of Criminals.

THEREAS it is expedient to amend the law relating to the surrender to foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by foreign States to this country:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

# Preliminary.

- 1. This Act may be cited as "The Extradition Act, 1870." short Title.
- 2. Where an arrangement has been made with any foreign where ar-State with respect to the surrender to such State of any fugi-rangement for tive criminals, Her Majesty may, by Order in Council, direct eriminals made, Order that this Act shall apply in the case of such foreign State.

apply Act.

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Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's Dominions specified in the order, and render the operation thereof subject to such conditions, exceptions and

qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then meeting of Parliament, and shall also be published in the London Gazette.

Restrictions can a surrender of surrender of to the surrender of fugitive criminals:

- (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the Police Magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:
- (2.) A fugitive criminal shall not be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's Dominions, be detained or tried in that foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded:
- (8.) A fugitive criminal who has been accused of some offence within *English* jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise:
- (4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

- 4. An Order in Council for applying this Act in the case Provisions of of any foreign State shall not be made unless the arrange- for surrender. ment-
- (1.) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year;
- (2.) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.
- 5. When an order applying this Act in the case of any Publication foreign State has been published in the London Gazette, this order. Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign State. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign State mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.
- 6. Where this Act applies in the case of any foreign State, Liability of criminal to every fugitive criminal of that State who is in or suspected of surrender. being in any part of Her Majesty's Dominions, or that part which is specified in the order applying this Act (as the case may be) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's Dominions over that crime.

(By Imp. Act, 36 & 37 V., c. 60, s. 2, post, it is declared that a crime committed before the date of the order includes in this section a crime conmitted before the passing of this Act.)

7. A requisition for the surrender of a fugitive criminal of Order of Seany foreign State, who is in or suspected of being in the State for issue United Kingdom, shall be made to a Secretary of State by of warrant in United King some person recognised by the Secretary of State as a diplo-dom if orime is not of a politimatic representative of that foreign State. A Secretary of eal character. State may, by order under his hand and seal, signify to a Police Magistrate that such requisition has been made and require him to issue his warrant for the apprehension of the fugitive criminal.

(For interpretation of "diplomatic representative" see 36 & 37 V., c. 60, s. 7, post.)

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time, order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by Police Magistrate, Justice, &c.

- 8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—
- (1.) by a Police Magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and
- (2.) by a Police Magistrate or any Justice of the Peace in any part of the United Kingdom, on such information or complaint and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint or certified copies thereof to a Secretary of State, who may, if he think fit, order the warrant to be cancelled and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section who shall, by warrant, order him to be brought, and the prisoner shall accordingly be brought before a Police Magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the Police Magistrate, unless the Police Magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of orims. 9. When a fugitive criminal is brought before the Police Magistrate, the Police Magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in *England*.

The

The Police Magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an ex- Committal or tradition crime, if the foreign warrant authorizing the arrest prisoner. of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the Law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the Law of England, prove that the prisoner was convicted of such crime, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11. If the Police Magistrate commits a fugitive criminal Surrender of to prison he shall inform such criminal that he will not be Foreign State surrendered until after the expiration of fifteen days, and that by warrant surrendered until after the expiration of fifteen days, and that by warrant he has a right to apply for a suit of Habeas corpus.

Upon the expiration of the said fifteen days; or, if a writ of Habeas corpus is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the Foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such Foreign State the criminal mentioned in the warrant;

and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. It the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom, within two months after such committal; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of Police Magistrate.

13. The warrant of the Police Magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been orginially issued or subsequently indorsed by a Justice of the Peace, having jurisdiction in the place where the same is executed.

Depositions to be evidence, 6 & 7 Vict., c. 76.

14. Depositions or statements on oath, taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this Act.

(By Imp. Act, 36 & 37 V., c. 60, s, 4, post, the provisions of this Act relating to depositions and statements on oath taken in a foreign State are extended to affirmations so taken.)

Authentication of depositions and warrants, 29 & 30 Vict., c. 121.

- 15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner for the time being by law or authenticated as follows:—
- (1.) If the warrant purports to be signed by a Judge, Magistrate, or officer of the foreign State where the same was issued:
- (2.) If the depositions or statements or the copies thereof purport to be certified, under the hand of a Judge, Magistrate, or officer of the foreign State where the same were taken, to be the original depositions or statements or to be true copies thereof as the case may require; and

(8.)

(3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a Judge, Magistrate, or officer of the foreign State where the conviction took place; and

If in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be), are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State. And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

(See note to Sec. 14.)

### Crimes committed at Sea.

16. Where the orime in respect of which the surrender of Jurisdiction as a fugitive criminal is sought was committed on board any mitted at sea. vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

- 1. This Act shall be construed as if any Stipendiary Magistrate in England or Ireland, and any Sheriff or Sheriff substitute in Scotland, were substituted for the Police Magistrate throughout this Act, except the part relating to the execution of the warrant of the Police Magistrate:
- 2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
- 3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the Stipendiary Magistrate, Sheriff, or Sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

(See Imp. Act, 36 & 37 V., c. 60, s. 6, post.)

Fugitive Criminals in British Possessions.

17. This Act, when applied by Order in Council, shall, Proceedings as unless it is otherwise provided by such order, extend to every oriminals in British possession in the same manner as if throughout this British possessions. Act the British possession were substituted for the United • Kingdom or England, as the case may require, but with the following modifications namely—

(1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the Governor of that British possession by any person recognized by that Governor as a Consul-General, Consul, or Vice-Consul, or, if the fugitive criminal has escaped from a colony or dependency of the foreign State on behalf of which the requisition is made, as the Governor of such colony or dependency:

(For interpretation of "Consul" and "Vice-Consul" see Imp. Act, 36 & 37 V., c. 60, s. 7, post.)

- (2.) No warrant of a Secretary of State shall be required, and all powers vested in or Acts authorized or required to be done under this Act by the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone:
- (3.) Any prison in the *British* possession may be substituted for a prison in Middlesex:
- (4.) A Judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England, may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

- 18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any *British* possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such *British* possession, Her Majesty may, by the Order in Council applying this Act, in the case of any foreign State, or by any subsequent order, either
  - suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer;
  - or direct that such law or ordinance, or any part thereof, shall have effect in such *British* possession, with or without modifications and alterations, as if it were part of this Act.

(Dom. Acts 31 V., c. 94, and 33 V., c. 25, relate to the extradition of criminals from Canada to the United States.)

#### General Provisions.

Original surrendered by foreign State, any person accused or convicted of any crime not triable for which, if committed in England, would be one of the crimes previous crime which, if committed in England, would be one of the crimes described

described in the first schedule to this Act is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's Dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

20. The forms set forth in the second schedule to this Act, As to use of forms in or forms as near thereto as circumstances admit, may be used second schoolin all matters to which such forms refer, and in the case of a nie. British possession may be so used, mutatis mutandis, and when used shall be deemed to be valid and sufficient in law.

21. Her Majesty may, by Order in Council, revoke or Revocation, alter, subject to the restrictions of this Act, any Order in in Council. Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, mutatis mutandis to any such new order.

(Sec. 22 extended this Act to the Channel Islands and the Isle of Man.)

(Sec. 23 relates to extradition treaties with Indian native States and other Asiatic States.)

24. The testimony of any witness may be obtained in Power of for-relation to any criminal matter pending in any court or obtain evitribunal in a foreign State in like manner as it may be ob-dence in United Kingdom. tained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "An Act to provide for taking evidence in Her Ma-"jesty's Dominions in relation to civil and commercial matters "pending before foreign tribunals;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

25. For the purposes of this Act, every colony, depend-Foreign State ency, and constituent part of a foreign State, and every pendencies. vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign State.

26. In this Act, unless the context otherwise requires,—pennition of

The term "British possession" means any colony, planta- "British postion, island, territory, or settlement within Her Majesty's session: Dominions,

Dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

- "Legislature:" The term "legislature" means any person or persons who can exercise legislative authority in a *British* possession, and where there are local legislatures as well as a central legislature, means the central legislature only:
- "Governor:" The term "Governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India:
- "Extradition orime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:
- 'Conviction:"

  The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy:
- "Fugitive eriminal."

  The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign State, who is in or suspected of being in some part of Her Majesty's Dominions; and the term "fugitive criminal of a foreign State" means a fugitive criminal or accused or convicted of an extradition crime committed within the jurisdiction of that State:
- "Secretary of State" The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State:
- "Police Magistrate" The term "Police Magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow street:
- "Justice of the Peace" includes in Scotland any Sheriff, Sheriff's substitute, or Magistrate:
- "Warrant:" The term "warrant" in the case of any foreign State, includes any judicial document authorizing the arrest of a person accused or convicted of crime:

# Repeal of Acts.

Repeal of Acts
27. The Acts specified in the third schedule to this Act are
in third schedhereby repealed as to the whole of Her Majesty's Dominions;
and this Act (with the exception of anything contained in it
which is inconsistent with the treaties referred to in the Acts

so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign States with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any *British* possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered in the same manner as if this Act had not passed.

### SCHEDULES.

#### FIRST SCHEDULE.

### List of Crimes.

The following list of crimes is to be construed according to the law existing in *England* or in a *British* possession (as the case may be) at the date of the alleged crime, whether by common law or by Statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

(See Imp. Act 36 & 37 V., c. 60, s. 8, post, by which it is provided that this Act shall be construed as if the crimes mentioned in the schedule to that Act were included in this schedule. Imp. Act 36 & 37 V., c. 88, (The Slave Trade Act, 1873), makes a further addition to the list of extradition offences. Sec. 27 of that Act is as follows:

27. Offences committed against this Act or the enactments with which this Act is to be construed as one, or otherwise in connection with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act and any Act amending the same shall be construed accordingly.)

#### SECOND SCHEDULE.

Form of Order of Secretary of State to the Police Magistrate.

To the Chief Magistrate of the Metropolitan Police Courts. or other Magistrate of the Metropolitan Police Court in Bow Street [or the Stipendiary Magistrate at ]

Whereas in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the

day of , a requisition has been made to me, , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative of , for the surrender of , late of , accused [or convicted] of the commission of the crime of , within the jurisdiction of .

Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of "The Extradition Act, 1870," relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day

of 18

Form of Warrant of Apprehension by Order of Secretary of State.

METROPOLITAN POLICE
DISTRICT [or COUNTY or BOROUGH OF ] the metropolitan police force, [or of the county or borough of ]

WHEREAS the Right Honorable one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of , late of accused [or convicted] of the commission of the crime of , within the jurisdiction of This is therefore to command you in Her Majesty's name forthwith to apprehend the said pursuant to "The Extradition Act, 1870," wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [\*magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [\*Bow street, one of the police courts of the metropolis] this day of 18. .

J. P.

\*Note.-Alter as required.

Form of Warrant of Apprehension without Order of Secretary of State.

METROPOLITAN POLICE
DISTRICT [or COUNTY or BOROUGH OF ]
To WIT.

To all and each of the constables of the metropolitan police force, [or of the county or borough of ]

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district, [or the said county or borough of ], that , late of , is accused [or convicted] of the commission

mission of the crime of within the jurisdiction of . This is, therefore, to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court, [or one of Her Majesty's justices of the peace in and for the county (or borough) of ], to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [or in the county or borough aforesaid], this day of 18.

J. P.

# Form of Warrant for bringing Prisoner before the Police Magistrate.

COUNTY [or Berough] of , and to all other peace officers in the fo Wir. | said county [or borough] of .

Whereas late of , accused [or alleged to be convicted of] the commission of the crime of within the jurisdiction of , has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [or borough] of . And whereas by "The Extradition Act, 1870," he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow street, within the metropolitan police district [or the stipendiary magistrate for .]

This is, therefore, to command you, the said constable, in Her Majesty's name, forthwith to take and convey the said to the metropolitan police district [or the said ], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow street within the said district [or before a stipendiary magistrate sitting in the said ], to show cause why should not be surrendered in pursuance of "The Extradition Act, 1870," and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at , in the county [or borough] aforesaid, this day of 18 .

J. P.

### Form of Warrant of Committal.

EXTRADITION.

METROPOLITAN , one of the constables To of the metropolitan police force [or of the police force of the county or borough of , and to the keeper of the To W17.

Be it remembered that on this , in the year day of , late of , is brought before me. of our Lord the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis] sitting at the police court in Bow street, within the metropolitan police district, [or a stipendiary magistrate for ], to show cause why he should not be surrendered in pursuance of "The Extradition Act, 1870," on the ground of his being accused [or convicted] of the commission of the crime of within the jurisdiction of ; and for as much as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act:

This is, therefore, to command you, the said constable, in Her Majesty's name, forthwith to convey and deliver the body of the said into the custody of the said keeper of the , and you, the said keeper, to receive the said into your custody, and him there safely to keep until he is thence delivered, pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow street, one of the police courts of the metropolis, [or at the said ], this 18 day of

J. P.

Form of Warrant of Secretary of State for surrender of Fugitive.

To the keeper of , and to

. late of , accused [or convicted] of the commission of the crime of within the jurisdiction , was delivered into the custody of you , the keeper of , by warrant dated , pursuant to "The Extradiion Act, 1870:"

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the body of the said custody of the said , and I command you, the said , to receive the said into your custody, and to convey him within the jurisdiction of the said there place him in the custody of any person or persons to receive him, for which this appointed by the said shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of

THIRD

#### THIRD SCHEDULE.

# Year and chapter.

#### TITLE.

- An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
- 6 & 7, Viet., c. An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
- 8 & 9, Vict., c. An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
- An Act for giving effect to a convention between Her Majesty and the King of *Denmark* for the mutual surrender of criminals.
- an Act for the amendment of the law relating to treaties of extradition.

# 33 & 34 Vict., с. 90—1870.

An Act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace.

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

## Preliminary.

- Short title of Act. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870."
- Application of 2. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.

3. This Act shall come into operation in the United King-Commence dom immediately on the passing thereof, and shall be pro-ment of Act. claimed in every British possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act.

### Illegal Enlistment.

4. If any person, without the license of Her Majesty, being Penalty on enlistment in a British subject, within or without Her Majesty's Dominions, accepts or agrees to accept any commission or engagement in foreign state. the military or naval service of any foreign State at war with any foreign State at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's Dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign State as aforesaid,—

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the license of Her Majesty, being Penalty on a British subject, quits or goes on board any ship with a view Majesty's of quitting Her Majesty's Dominions, with intent to accept deminions with intent to any commission or engagement in the military or naval ser-serve a foreign vice of any foreign State at war with a friendly State, or, whether a British subject or not, within Her Majesty's Dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's Dominions with the like intent,—

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Penalty on Majesty's Dominions or to embark on any ship within Her persons under Majesty's Dominions under a misrepresentation or false representations as to presentation of the service in which such person is to be en- service. gaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State,-

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

Penalty on taking illegally enlisted persons on board ship.

- 7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's Dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,
- (1.) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign State at war with any friendly State:
- (2.) Any person, being a British subject, who without the license of Her Majesty, is about to quit Her Majesty's Dominions with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State:
- (8.) Any person who has been induced to embark under a misrepresentation or false misrepresentation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State:

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue, that is to say:—

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour: and
- (2.) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties, to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace: and
- (3.) All illegally enlisted persons shall immediately on the discovery of the offence, be taken on shore, and shall not be allowed to return to the ship.

Illegal

### Illegal Shipbuilding and Illegal Expeditions.

8. If any person within Her Majesty's Dominions, without Penalty on illegal ship the license of Her Majesty, does any of the following acts: building and illegal expedithat is to say,—

- (1.) Builds or agrees to build or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State: or
- (2.) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State: or
- (8.) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State: or
- (4.) Despatches, or causes or allows to be despatched, any ship, with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State:

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty;

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following,—that is to say:

(1.) If forthwith upon a proclamation of neutrality being issued by Her Majesty, he gives notice to the Secretary

of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract, and of any matters relating to or done, or to be done under the contract, as may be required by the Secretary of State:

(2.) If he gives such security, and takes or permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

gal ship.

9. Where any ship is built by order of or on behalf of any in case of silein case of sileforeign State when at war with a friendly State, or is delivered to or to the order of such foreign State, or any person who, to the knowledge of the person building, is an agent of such foreign State, or is paid for by such foreign State or such agent, and is employed in the military or naval service of such foreign State, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign State.

foreign ships.

Penalty on 10. If any person within the dominion adding the warlike equip- and without the license of Her Majesty,— 10. If any person within the dominions of Her Majesty,

> By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship, which, at the time of her being within the dominions of Her Majesty, was a ship in the military or naval service of any foreign State at war with any friendly State,—

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expe ditions with out license.

11. If any person within the limits of Her Majesty's Dominions, and without the license of Her Majesty,—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly State, the following consequences shall ensue :—

(1.)

- (1.) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine or imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) All ships and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.
- 12. Any person who aids, abets, counsels or procures the Purishment commission of any offence against this Act shall be liable to of accessories be tried and punished as a principal offender.
- 13. The term of imprisonment to be awarded in respect of Limitation of any offence against this Act shall not exceed two years.

### Illegal Prize.

Majesty may be neutral, any ship, goods, or merchandise british ports captured as prize of war within the territorial jurisdiction of Her Majesty in violation of the neutrality of this realm, or captured by any ship, which may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's Dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the Government of the foreign State to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and, in the meantime, and until a final order has been made on such application, the court shall have power to make all such provisional and other

incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

orders as to the care or custody of such captured ship, goods, or merchandize, and (if the same be of perishable nature, or

General

### General Provision.

License by
Her Majesty
how granted.

15. For the purposes of this Act, a license by Her Majesty
shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

### Legal Procedure.

Jurisdiction in respect of offences by persons against Act.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person found guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's Dominions in which the person who committed such offence may be.

Venue in respect of such offences. 24 & 25 Vict., 17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's Dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.

Power to remove offenders for trial. 18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's Dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

19. All proceedings for the condemnation and forfeiture of Jurisdiction in a ship, or ship and equipment, or arms and munitions of foresture of war, in pursuance of this Act, shall require the sanction of ships for offences the Secretary of State or such chief executive authority as is against Act. in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act, all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

20. Where any offence against this Act has been committed to proceedings ted by any person by reason whereof a ship, or ship and against the equipment, or arms and munitions of war, has or have be-against the come liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture, because proceedings are taken against the offender.

# 21. The following officers, that is to say,

Officers authorised to eise offending

- (1.) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioner of Customs, or any officer of the Board of Trade subject nevertheless to any special or general instructions from the Board of Trade;
- (2.) Any officer of customs or public officer in any British Possession, subject nevertheless to any special or general instructions from the Governor of such possession;
- (3.) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4.) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer:

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority," but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

Powers of officers authorized to seize ships.

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22. Any officer authorized to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbor master or dock master, or any offi. cers having authority by law to make seizures of ships; and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act; and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention; and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed or hurt.

FORRIGN ENLISTMENT.

Special power of Secretary of State or chief thority to de-tain ship.

**93.** If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner hereinafter mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section

section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect to the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section, where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's Dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24. Where it is represented to any local authority, as special power defined by this Act, and such local authority believes the thority to representation, detain ship.

representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State, without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention, upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

Power of Secretary of State or executive authority to grant search warrant. 25. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dock-yard or other place within Her Majesty's Dominions and enquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign State at war with a friendly State, and to search such ship.

Exercise of powers of Secretary of State or chief executive authority.

- 26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say:
- (1.) In *Ireland* by the Lord Lieutenant or other the chief Governor or Governors of *Ireland* for the time being, or the chief Secretary to the Lord Lieutenant:

(2.)

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- (2.) In Jersey by the Lieutenant Governor:
- (3.) In Guernsey, Alderney, and Sark, and the dependent islands by the Lieutenant Governor:
- (4.) In the Isle of Man by the Lieutenant Governor:
- (5.) In any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man, shall be laid before Parliament.

- 27. An appeal may be had from any decision of a Court Appeal from of Admiralty under this Act to the same tribunal and in the Court of Admiralty. same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.
- 28. Subject to the provisions of this Act providing for the Indemnity to award of damages in certain eases in respect of the seizure officers. or detention of a ship by the Court of Admiralty no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.
- 29. The Secretary of State shall not, nor shall the chief Indomnity to executive authority, be responsible in any action or other State or chief legal proceedings whatsoever for any warrant issued by him executive authority. in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

# Interpretation Clause.

- 30. In this Act, if not inconsistent with the context, the Interpretafollowing terms have the meanings hereinafter respectively tion of terms. assigned to them; that is to say,—
  - "Foreign state" includes any foreign prince, colony, pro- "Foreign vince, or part of any province or people, or any person State. or persons exercising or assuming to exercise the powers of Government in or over any foreign country, colony, province, or part of any province or people:
  - "Military service" shall include military telegraphy and "Military any other employment whatever, in or in connexion with Service." any military operation:
  - "Naval service" shall, as respects a person, include ser- "Naval vice as a marine, employment as a pilot in piloting or Service." directing

directing the course of a ship of war or other ship, when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque; and, as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque:

- "United Kingdom."
- "United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands:
- "British possession."
- "British Possession" means any territory, colony, or place, being part of Her Majesty's Dominions and not part of the United Kingdom, as defined by this Act:
- "The Secretary of State."
- "The Secretary of State" shall mean any one of Her Majesty's principal Secretaries of State:
- " Governor,"
- "The Governor" shall, as respects *India*, mean the Governor General or the Governor of any Presidency, and where a *British* possession consists of several constituent colonies, mean the Governor General of the whole possession, or the Governor of any of the constituent colonies, and as respects any other *British* possession it shall mean the officer for the time being administering the Government of such possession; also any person acting for or in the capacity of a Governor shall be included under the term "Governor":
- " Court of Admiralty."
- "Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland, or any Vice-Admiralty Court within Her Majesty's Dominions:
- " Ship."
- "Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water:
- "Building."
- "Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:
- " Equipping."
- "Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in a ship for the purpose of fitting or adapting

adapting her for the sea or for naval service; and all words relating to equipping shall be construed accordingly:

- "Ship and equipment" shall include a ship and every-"ship and thing in or belonging to a ship:
- "Master" shall include any person having the charge or "Master." command of a ship.

### Repeal of Acts and Saving Clauses.

31. From and after the commencement of this Act, an Repeal of Act passed in the fifty-ninth year of the reign of His late ment Act, 50 Majesty King George the Third, chapter sixty-nine, intituled G. 3, c. 69. "An Act to prevent the enlisting or engagement of His "Majesty's subjects to serve in foreign service, and the fitting "out or equipping, in His Majesty's Dominions, vessels for "warlike purposes, without His Majesty's license," shall be repealed: Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid.

32. Nothing in this Act contained shall subject to for-saving as to feiture any commissioned ship of any foreign State, or give commissioned ships. to any British court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign State any jurisdiction which it would not have had if this Act had not passed.

33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who to extend to
extend to subject to any penalty any person who to extend to
persons entering into militentate in Asia, with such leave or license as is for the time Asia—50 G. s, being required by law in the case of subjects of Her Majesty, c. 69, s. 12, entering into the military service of princes, States, or potentates in Asia.

# 33 & 34 Vict., c. 102—1870.

An Act to amend the Law relating to the taking of oaths of Allegiance on Naturalization.

83 & 84 Vict., e. 14. HEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under "The Naturalization Act, 1870:" Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Regulations as to oath of allegiance.

- 1. The power of making regulations vested in one of Her Majesty's principal Secretaries of State by "The Naturalization Act, 1870," shall extend to prescribing as follows:—
- (1.) The persons by whom the oaths of allegiance may be administered under that Act:
- (2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:
- (8.) The registration of such oaths:
- (4.) The persons by whom certified copies of such oaths may be given:
- (5.) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:
- (6.) The proof in any legal proceedings of such oaths:
- (7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on making false declaration. 2. Any person wilfully and corruptly making or subscribing any declaration under "The Naturalization Act, 1870," know-

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ing the same to be untrue in any material particular, shall be guilty of a misdemeanour, and be liable to imprisonment with or without hard labour, for any term not exceeding twelve months.

3. This Act shall be termed the "Naturalization Oath Act, Construction 1870," and shall be construed as one with "The Naturaliza- and an tion Act, 1870," and may be cited together with that Act as the "Naturalisation Acts, 1870."

# 34 & 35 Vict., c. 28—1871.

An Act respecting the establishment of Provinces in the Dominion of Canada.

\* THEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in territories admitted, or which may hereafter be admitted into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said-Parliament:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1. This Act may be cited for all purposes as "The British short utile. "North America Act, 1871."
- 2. The Parliament of Canada may from time to time Parliament of establish new Provinces in any territories forming for the Canada may time being part of the Dominion of Canada, but not included Provinces and provide for the in any Province thereof, and may, at the time of such establishment. lishment, make provision for the constitution and adminis-dc., therees. tration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

3. The Parliament of Canada may from time to time, with Alteration of the consent of the Legislature of any Province of the said limits of Provinces. Dominion, increase, diminish, or otherwise alter the limits

of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament of Canada may legislate for any territory not included in a Province.

- 4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.
- Confirmation of Acts of dian) cap. 8.
- 5. The following Acts passed by the said Parliament of Parliament of Canada, and intituled respectively:, "An Act for the temporary Ganada, 32 & Guidatt, and introduct respectively: An interior the semporary 33 vict., (Cana-" government of Rupert's Land and the North Western Terri-"tory when united with Canada," and "An Act to amend "and continue the Act thirty-two and thirty-three Victoria, "chapter three, and to establish and provide for the gov-"ernment of the Province of Manitoba," shall be and be deemed to be valid and effectual for all purposes whatsover from the date at which they respectively received the assent, in the Queen's name, of the Governor General of the said Dominion of Canada.

Limitation of powers of Par-liament of tablished Province.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter Canada to legislate for an the provisions of the last mentioned Act of the said Parliament, in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

# 35 & 36 Vict., c. 39—1872.

An Act for amending the Law in certain cases in relation to Naturalization.

THEREAS by a Convention between Her Majesty and the United States of America, supplementary to the Convention of the thirteenth day of May, one thousand eight hundred and seventy, respecting naturalization, and signed at Washington on the twenty-third day of February, one thousand eight hundred and seventy-one, and a copy of which is contained in the schedule to this Act, provision is made in relation to the renunciation by the citizens and subjects therein mentioned of naturalization or nationality in the presence of the officers therein mentioned:

And whereas doubts are entertained whether such provisions are altogether in accordance with the Naturalization Act, 1870: And whereas other doubts have arisen with respect to the effect of "The Naturalization Act, 1870," on the rights of women married before the passing of that Act; and it is expedient to remove such doubts:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 1. This Act may be cited for all purposes as the Naturali-Short Title. zation Act, 1872, and this Act and "The Naturalization Act, 1870," may be cited together as "The Naturalization Acts, 1870 and 1872."
- 2. Any renunciation of naturalization or of nationality confirmation made in manner provided by the said supplementary Convention of renunciation by the persons and under the circumstances in the said convention. Convention in that behalf mentioned shall be valid to all intents, and shall be deemed to be authorized by the said Naturalization Act, 1870. This section shall be deemed to take effect from the date at which the said supplementary Convention took effect.

3. Nothing contained in "The Naturalization Act, 1870," Saving clause shall deprive any married woman of any estate or interest in of married real or personal property to which she may have become women. entitled previously to the passing of that Act, or affect such estate or interest to her prejudice.

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### SCHEDULE.

Convention between Her Majesty and the United States of America, supplementary to the Convention of May 13, 1870, respecting Naturalization.

Signed at Washington, 23rd February, 1871.

[Ratistications exchanged at Washington, May 4, 1871.]

Whereas by the second article of the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America for regulating the citizenship of subjects and citizens of the contracting parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at London, on the 13th of May, 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the Governments of the respective countries; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the United States of America, for the purpose of effecting such agreement, have resolved to conclude a supplemental Convention, and have named as their plenipoteniaries, that is to say; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and the President of the United States of America, Hamilton Fish, Secretary of State; who have agreed as follows:

#### ARTICLE L

Any person being originally a citizen of the United States who had, previously to May 18, 1870, been naturalized as a British subject may at any time before August 10, 1872, and any British subject who, at the date first aforesaid, had been naturalized as a citizen within the United States, may at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as Annex A.

Such renunciation by an original citizen of the United States, of British nationality, shall, within the territories and jurisdiction of the United States, be made in duplicate, in the presence

presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court; if the declarant be beyond the territories of the *United States*, it shall be made in duplicate, before any diplomatic or consular officer of the *United States*. One of such duplicates shall remain of record in the custody of the court or officer in whose presence it was made; the other shall be, without delay, transmitted to the department of State.

Such renunciation, if declared by an original British subject, of his acquired nationality as a citizen of the United States, shall, if the declarant be in the United Kingdom of Great Britain and Ireland, be made in duplicate, in the presence of a justice of the peace; if elsewhere in Her Britannic Majesty's Dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her Majesty's Dominions, in triplicate, in the presence of any officer in the diplomatic or consular service of Her Majesty.

### ARTICLE II.

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization, with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

### ARTICLE III.

The present Convention shall be ratified by Her Britannic Majesty, and by the President of the United States by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto respective seals.

Done at Washington, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventyone.

- (L.s.) Edwd. Thornton.
- (L.S.) HAMILTON FISH.

### Annex (A.)

I, A.B., of (insert abode), being originally a citizen of the United States of America (or a British subject), and having become naturalized within the dominions of Her Britannic Majesty as a British subject (or as a citizen within the United States of America), do hereby renounce my naturalization as a British subject (or citizen of the United States); and declare that it is my desire to resume my nationality as a citizen of the United States (or British subject.)

(Signed,) A.B.

Made and subscribed before me in (insert country or other subdivision, and state, province, colony, legation or consulate,) this day of 187.

(Signed,) E.F.,

Justice of the Peace (or other title.)

(L.s.) EDWD. THORNTON. (L.s.) HAMILTON FISH.

# 35 & 36 Vict., c. 45—1872.

An Act to carry into effect a Treaty between Her Majesty and the United States of America.

HEREAS a treaty between Her Majesty and the United States of America was signed at Washington on the eighth day of May, one thousand eight hundred and seventy-one, and was duly ratified on the seventeenth day of June of that year, which, amongst other things, contained the articles set out in the schedule to this Act:

And whereas an Act intituled "An Act relating to the Treaty of Washington, 1871," has been passed by the Parliament of Canada for the purpose of carrying into operation the said articles ;

And whereas an Act intituled "An Act relating to the Treaty of Washington, 1871," has been passed by the Legislature of Prince Edward's Island, for the purpose of carrying into operation the said articles;

And whereas the Congress of the United States of America have not as yet passed any Act for carrying into operation on the part of the *United States* the said articles;

And whereas it is expedient to make provision by Act of Parliament for carrying into operation the said articles,

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. As soon as the law required to carry into operation, on suspension of the part of the *United States of America*, the articles set out ance with in the schedule to this Act has been passed by the Congress articles. of the United States and come into force, all Acts of Parliament and laws which operate to prevent the said articles from taking full effect, shall so far as they so operate be suspended and have no effect during the period mentioned in the article numbered thirty-three in the schedule to this Act.

(Sec. 2 provided for the extension of the articles in the schedule to Newfoundland.)

3. This Act may be cited as "The Treaty of Washington short Title. Act, 1872."

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### SCHEDULE.

Articles of the Treaty of Washington of the 8th May, 1871, which are referred to in the foregoing Act:

Article XVIII, which is set out in the schedule, gives to the inhabitants of the United States, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, of the sea fishing of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, provided that they do not interfere with the rights of private property, or with British fishermen, in the use of any part of the said coasts for the same purpose.

Article XIX, which is also set out in the schedule, gives similar rights to British subjects with respect to the fisheries on the eastern sea coasts and shores of the United States north of the 39th parallel.

Article XX provides that certain places reserved under the First Article of the Treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, from the common right of fishing under that Treaty, shall be regarded as reserved from the common right of fishing under the preceding articles, and provides also for the settling of disputes as to the common right of fishing.

### ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country respectively, free of duty.

Articles XXII—XXV, which are set out in the schedule, provide for the appointment and prescribe the mode of proceeding of Commissioners to determine, having regard to the privileges accorded by the United States to the subjects of Her Britannic Majesty, as stated in Articles XIX and XXI of this Treaty, the amount of any compensation which ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII.

### ARTICLE XXX.

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty

may

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may carry in British vessels, without payment of duty, goods, wares, or merchandize from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the *United States* as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandize from one port or place within the Possessions of Her Britannic Majesty in North America, to another port or place within the said Possessions: Provided, that a portion of such transportation is made through the territory of the United States by land carriage and in bond under such rules and regulations as may be agreed upon between the Government of the United States and the Government of Her Britannic Majesty.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandize carried under this article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the Legislatures of the other colonies not to impose any export duties on goods, wares, or merchandize carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favour of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favour of the subjects of Her Britannic Majesty under this article in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

### ARTICLE XXXI.

The Government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the Legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and

floated down that river to the sea, when the same is shipped to the *United States* from the Province of *New Brunswick*. And in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this Treaty, it is agreed that the Government of the *United States* may suspend the right of carrying hereinbefore granted under Article XXX of this Treaty for such period as such export or other duty may be levied.

Article XXXII provided for the extension of the stipulations of Articles XVIII—XXV to Newfoundland.

### ARTICLE XXXIII.

The foregoing Articles XVIII—XXV inclusive, and Article XXX of this Treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward's Island, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation, and further, until the expiration of two years after either of the high contracting parties shall have been given notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

# 36 & 37 Vict., c. 60—1873.

# An Act to amend the Extradition Act, 1870.

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1. This Act shall be construed as one with the Extradition construction Act, 1870, (in this Act referred to as the principal Act,) and of Act and short title. the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.
- 2. Whereas by section six of the principal Act it is enacted Explanation of soc. 6 of 33 & 34 V., c. 52 as follows:
- "Where this Act applies in the case of any foreign State "every fugitive criminal of that State who is in or suspected "of being in any part of Her Majesty's Dominions, or that "part which is specified in the order applying this Act (as "the case may be), shall be liable to be apprehended and "surrendered in manner provided by this Act, whether the "crime in respect of which the surrender is sought was com-"mitted before or after the date of the order, and whether "there is or is not any concurrent jurisdiction in any court " of Her Majesty's Dominions over that crime."

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

- A crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.
- 3. Whereas a person who is accessory before or after the Liability of fact, or counsels, procures, commands, aids, or abets the accessories to to be surrencommission of any indictable offence, is by English law liable dered. to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed, for the purposes of the principal Act and this Act, to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation of mec. 14 of 38 & 34 Vict., c. 52, as to statemations.

4. Be it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a as to state-ments on oath foreign State, and copies of such original depositions and including affir-statements, do and shall extend to affirmations taken in a foreign State, and copies of such affirmations.

Power of taking evidence in the United Kingdom for foreign crimi-nal matters.

5. A Secretary of State may, by order under his hand and seal, require a Police Magistrate or a Justice of the Peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign State; and the Police Magistrate or Justice of the Peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a Police Magistrate or Justice of the Peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Explanation of sec. 16 of 33

6. The jurisdiction conferred by section sixteen of the principal Act on a Stipendiary Magistrate and a Sheriff or Sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the Police Magistrate.

7. For the purposes of the principal Act and this Act a Explanation diplomatic representative of a foreign State shall be deemed representative to include any person recognised by the Secretary of State as and consul. a Consul-General of that State, and a Consul or Vice-Consul shall be deemed to include any person recognized by the Governor of a British Possession as a consular officer of a foreign State.

8. The principal Acts shall be construed as if there were Addition to list included in the first schedule to that Act the list of crimes of extraditable contained in the schedule to this Act.

### SCHEDULE.

### List of Crimes.

The following list of crimes is to be construed according to the law existing in England or in a British Possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act :--

Kidnapping and false imprisonment.

Perjury and subornation of perjury, whether under common or statute law.

Any indictable offence under the Larceny Act, 1861, or 24 & 25 V., c. 26 any Act amending or substituted for the same, which is not do. included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate "and amend the Statute Law of England and Ireland relating "to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and "amend the Statute Law of England and Ireland relating to "indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and "amend the Statute Law of the United Kingdom against "offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

• Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the Statute Law of England and Ireland relating to "offences against the person," or any Act amending or substituted for the same which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

## 37 & 38 Vict., c. 27—1874.

An Act to regulate the Sentences imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.

Preamble.

WHEREAS by certain Acts of Parliament jurisdiction is conferred on courts in Her Majesty's colonies to try persons charged with certain crimes or offences, and doubts have arisen as to the proper sentences to be imposed upon conviction of such persons; and it is expedient to remove such doubts:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title

1. This Act may be cited for all purposes as The Courts (Colonial) Jurisdiction Act, 1874.

Definition of term "colony.

2. For the purposes of this Act,—

The term "colony" shall not include any places within the United Kingdom, the *Isle of Man*, or the *Channel Islands*, but shall include such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the Government of India, and any plantation, territory, or settlement situate elsewhere within Her Majesty's Dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government.

3. When, by virtue of any Act of Parliament now or here- As trials in after to be passed, a person is tried in a court of any colony for any colonial courts by any crime or offence committed upon the high seas or else- imperial Acta, where out of the territorial limits of such colony and of the courts emperlocal jurisdiction of such court, or if committed within such sentences as it local jurisdiction made punishable by that Act, such person crimes had been commitshall, upon conviction, be liable to such punishment as ted in the might have been indicated and the colony. might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding: Provided always that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England.

## 38 & 39 Vict., c. 38—1875.

An Act to remove certain doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867.

HEREAS by section eighteen of the British North so & SI Vict., America Act, 1867, it is provided as follows: "The c. 8, s. 18. privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof;"

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities, and it is expedient to remove such doubts,—

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Substitution of new section for section 18 of 30 & 81 Vict., c. 3. 1. Section eighteen of the British North America Act, 1867, is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed:

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers, shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act, held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.

Confirmation of Act of Parliament of Canada. 2. The Act of the Parliament of Canada, passed in the thirty-first year of the reign of her present Majesty, chapter twenty-four, intituled: "An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament," shall be deemed to be valid, and to have been valid as from the date at which the royal assent was given thereto by the Governor General of the Dominion of Canada.

Short Title.

3. This Act may be cited as the Parliament of Canada Act, 1875.

## 38 & 39 Vict., c. 53—1875.

An Act to give effect to an Act of the Parliament of the Dominion of Canada respecting Copyright.

WHEREAS by order of Her Majesty in Council, dated the 7th day of July, 1868, it was ordered that all prohibitions contained in Acts of the Imperial Parliament against the importing into the Province of Canada, or against the selling, letting out to hire, exposing for sale or hire, or possessing therein foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, should be supended so far as regarded Canada:

And whereas the Senate and House of Commons did, in the second session of the third Parliament of the *Dominion of* Canada, held in the thirty-eighth year of Her Majesty's reign, pass a bill intituled "An Act respecting copyrights," which bill has been reserved by the Governor General for the signification of Her Majesty's pleasure thereon:

And whereas by the said reserved bill provision is made, subject to such conditions as in the said bill are mentioned, for securing in *Canada* the rights of authors in respect of matters of copyright, and for prohibiting the importation into *Canada* of any work for which copyright under the said reserved bill has been secured; and whereas doubts have arisen whether the said reserved bill may not be repugnant to the said Order in Council, and it is expedient to remove such doubts and to confirm the said bill:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:

- 1. This Act may be cited for all purposes as The Canada Short Title of Copyright Act, 1875.
- 2. In the construction of this Act the words "book" and Definition of "copyright" shall have respectively the same meaning as in terms. the Act of the fifth and sixth years of Her Majesty's reign, chapter forty-five, intituled "An Act to amend the Law of Copyright."
- 3. It shall be lawful for Her Majesty in Council to assent Her Majesty to the said reserved bill, as contained in the schedule to this may assent to the Bill in Act schedule.

Act annexed, and if Her Majesty shall be pleased to signify Her assent thereto, the said bill shall come into operation at such time and in such manner as Her Majesty may by Order in Council direct; anything in the Act of the twenty-eighth and twenty-ninth years of the reign of Her Majesty, chapter ninety-three, or in any other Act to the contrary notwith-standing.

Colorial reprints not to be imported into United Kingdom.

4. Where any book in which, at the time when the said reserved bill comes into operation, there is copyright in the United Kingdom, or any book in which thereafter there shall be such copyright, becomes entitled to copyright in Canada in pursuance of the provisions of the said reserved bill, it shall be unlawful for any person, not being the owner, in the United Kingdom, of the copyright in such book, or some person authorized by him, to import into the United Kingdom any copies of such book reprinted or republished in Canada; and for the purposes of such importation the seventeenth section of the said Act of the fifth and sixth years of the reign of Her Majesty, chapter forty-five, shall apply to all such books in the same manner as if they had been reprinted out of the British Dominions.

Order in Council of 7th July, 1868, to continue in force subject to this Act. 5. The said Order in Council, dated the seventh day of July, one thousand eight hundred and sixty-eight, shall continue in force so far as relates to books which are not entitled to copyright for the time being in pursuance of the said reserved bill.

#### SCHEDULE.

### An Act respecting Copyrights.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

- 1. The Minister of Agriculture shall cause to be kept in his office books to be called the "Registers of Copyrights," in which proprietors of literary, scientific, and artistic works or compositions, may have the same registered in accordance with the provisions of this Act.
- 2. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations and prescribe such forms as may appear

appear to him necessary and expedient for the purposes of this Act; such regulations and forms, being circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act, and all documents executed and accepted by the said Minister of Agriculture shall be held valid so far as relates to all official proceedings under this Act.

- 3. If any person prints or publishes, or causes to be printed or published, any manuscript whatever, the said manuscript having not yet been printed in *Qanada* or elsewhere, without the consent of the author or legal proprietor first obtained, such person shall be liable to the author or proprietor for all damages occasioned by such publication, to be recovered in any court of competent jurisdiction.
- 4. Any person domiciled in Canada, or in any of the British Possessions, or being a citizen of any country having an international copyright treaty with the United Kingdom, who is the author of any book, map, chart, or musical composition, or of any original painting, drawing, statue, sculpture, or photograph, or who invents, designs, etches, engraves, or causes to be engraved, etched, or made from his ewn design, any print or engraving, and the legal representatives of such person shall have the sole right and liberty of printing, reprinting, publishing, reproducing, and vending such literary, scientific, or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the term of twenty-eight years from the time of recording the copyright thereof in the manner hereinafter directed:
- (2.) The condition for obtaining such copyright shall be that the said literary, scientific, or artistic works be printed and published, or reprinted or republished in Canada, whether they be so published or produced for the first time or contemporaneously with or subsequently to publication or production elsewhere; provided that in no case the exclusive privilege in Canada shall continue to exist after it has expired anywhere else.
- (8.) No immoral, or licentious, or irreligious, or treasonable, or seditious literary, scientific, or artistic work shall be the legitimate subject of such registration or copyright.
- 5. If at the expiration of the aforesaid term of twenty-eight years such author, or any of the authors where the work has been originally composed and made by more than one person, be still living, or being dead, has left a widow or a child or children living, the same exclusive right shall be continued to such author, or if dead, then to such widow and child or children

children (as the case may be), for the further term of fourteen years; but in such case, within one year after the expiration of the first term, the title of the work secured shall be a second time recorded, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright.

- 6. In all cases of renewal of copyright under this Act the author or proprietor shall, within two months from the date of such renewal, cause a copy of the record thereof to be published once in the Canada Gazette.
- 7. No person shall be entitled to the benefit of this Act unless he has deposited in the office of the Minister of Agriculture, two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving, and in case of paintings, drawings, statuary, and sculpture, unless he has furnished a written description of such works of art, and the Minister of Agriculture shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose, in the manner adopted by the Minister of Agriculture, or prescribed by the rules and forms which may be made from time to time as hereinbefore provided.
- 8. The Minister of Agriculture shall cause one of the two copies of such book, map, chart, musical composition, photograph, print, cut, or engraving aforesaid, to be deposited in the library of the Parliament of Canada.
- 9. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face thereof. or if a volume of maps, charts, music, engravings, or photographs upon the title page or frontispiece thereof, the following words; that is to say: "Entered according to Act of Parliament of Canada, in the year , by A. B., in the office of the Minister of Agriculture." But as regards paintings, drawings, statuary, and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship.
- 10. Pending the publication or republication in Canada of a literary, scientific, or artistic work, the author, or his legal representatives or assigns, may obtain an interim copyright by depositing in the office of the Minister of Agriculture a copy of the title or a designation of such work intended for publication or republication in Canada, the said title or designation

nation to be registered in an interim copyright register in the said office, to secure to the author aforesaid, or his legal representatives or assigns, the exclusive rights recognised by this Act, previous to publication or republication in Canada; the said interim registration however not to endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted, and published in Canada.

- (2.) In all cases of interim registration under this Act, the author or proprietor shall cause notice of such registration to be inserted once in the Canada Gazette.
- (3.) A literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be the subject of registration within the meaning of this Act while it is so preliminarily published, provided that the title of the manuscript and a short analysis of the work are deposited in the office of the Minister of Agriculture, and that every separate article so published is preceded by the words "Registered in accordance with the Copyright Act, 1875," but the work, when published in book or pamphlet form, shall be subject, besides, to the other requirements of this Act.
- (4.) The importation of newspapers and magazines published in foreign countries, and containing, together with foreign original matter, portions of British copyright works republished with the consent of the author or his assigns under the law of the country where such copyright exists, shall not be prohibited.
- 11. If any other person, after the interim registration of the title of any book according to this Act, within the term herein limited, or after the copyright is secured, and for the or terms of its duration, prints, publishes, or reprints or republishes, or imports, or causes to be so printed, published, or imported, any copy or any translation of such book, without the consent of the person legally entitled to the copyright thereof, first had and obtained by assignment, or knowing the same to be so printed or imported, publishes, sells, or exposes for sale, or causes to be published, sold, or exposed for sale, any copy of such book without such consent, such offender shall forfeit every copy of such book to the person then legally entitled to the copyright thereof; and shall forfeit and pay for every such copy which may be found in his possession, either printed or printing, published, imported or exposed for sale, contrary to the intent of this Act, such sum not being less than ten cents nor more than one dollar as the court shall determine, of which penalty one moiety shall

be to the use of Her Majesty, and the other to the legal owner of such copyright, and such penalty may be recovered in any court of competent jurisdiction.

- 12. If any person, after the recording of any painting, drawing, statue, or other work of art, within the term or terms limited by this Act, reproduces in any manner, or causes to be reproduced, made, or sold, in whole or in part, copies of the said works of art, without the consent of the proprietor or proprietors, such offender or offenders shall forfeit the plate or plates on which such reproduction has been made, and also every sheet thereof so copied, printed, or photographed, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of the same reproduction so published or exposed for sale, contrary to the true intent and meaning of this Act, such sum, not being less than ten cents nor more than one dollar, as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recorded in any court of competent jurisdiction.
- 13. If any person, after the recording of any print, cut, or engraving, map, chart, musical composition, or photograph, according to the provisions of this Act, within the term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either in the whole or by varying, adding to, or diminishing the main design, with intent to evade the law, or prints, or reprints, or imports for sale, or causes to be so printed or imported for sale, any such map, chart, musical composition, print, cut, or engraving, or any part thereof, without the consent of the proprietor or proprietors of the copyright thereof, first obtained as aforesaid, or knowing the same to be so printed or imported, without such consent, publishes, sells, or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph or print, without such consent as aforesaid, such offender or offenders shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph or print has been copied, and also every sheet thereof, so copied or printed as aforesaid, to the proprietor or proprietors of the copyright thereof, and shall further forfeit for every sheet of such map, musical composition, print, cut or engraving, which may be found in his or their possession, printed or published, or exposed for sale, contrary to the true intent and meaning of this Act, such sum not being less than ten cents nor more than one dollar, as the court shall determine; and one moiety of such forfeiture shall go to the proprietor or proprietors, and the other moiety to the use of Her Majesty, and such forfeiture may be recovered on any court of competent jurisdiction

- 14. Nothing herein contained shall prejudice the right of any person to represent any scene or object, notwithstanding that there may be copyright in some other representation of such scene or object.
- 15. Works of which the copyright has been granted and is subsisting in the United Kingdom, and copyright of which is not secured or subsisting in *Canada* under any *Canadian* or Provincial Act, shall, upon being printed and published or reprinted and republished in *Canada*, be entitled to copyright under this Act; but nothing in this Act shall be held to prohibit the importation from the United Kingdom of copies of such works legally printed there.
- (2.) In the case of the reprinting of any such copyright work subsequent to its publication in the United Kingdom any person who may have, previous to the date of entry of such work upon the registers of copyright, imported any foreign reprints, shall have the privilege of disposing of such reprints by sale or otherwise; the burden of proof, however, in such a case will lie with such person to establish the extent and regularity of the transaction.
- 16. Whenever the author of a literary, scientific, or artistic work or composition, which may be the subject of copyright, has executed the same for another person, or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such copyright, which is by the said transaction virtually transferred to the purchaser who may avail himself of such privilege, unless a reserve of the said privilege is specially made by the author or artist in a deed duly executed.
- 17. If any person, not having legally acquired the copyright of a literary, scientific, or artistic work, inserts in any copy thereof printed, produced, reproduced or imported, or impresses on any such copy, that the same hath been entered according to this Act, or words purporting to assert the existence of a Canadian copyright in relation thereto, every person so offending shall incur a penalty not exceeding three hundred dollars (one moiety whereof shall be paid to the person who sues for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.
- (2.) If any person causes any work to be inserted in the Register of Interim Copyright, and fails to print and publish, or reprint and republish the same within the time prescribed, he shall incur a penalty not exceeding one hundred dollars (one moiety whereof shall be paid

to the person who sueth for the same, and the other moiety to the use of Her Majesty), to be recovered in any court of competent jurisdiction.

- 18. The right of an author of a literary, scientific, or artistic work, to obtain a copyright, and the copyright when obtained shall be assignable in law, either as to the whole interest or any part thereof, by an instrument in writing made in duplicate, and to be recorded in the office of the Minister of Agriculture, on production of both duplicates and payment of the fee hereinafter provided. One of the duplicates shall be retained in the office of the Minister of Agriculture, and the other returned, with the certificate of registration, to the party depositing it.
- 19. In case of any person making application to register as his own the copyright of a literary, scientific, or artistic work, already registered in another person's name, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as proprietor of a registered copyright, to cancel the said copyright, the party so applying shall be notified that the question is to be settled before a court of competent jurisdiction, and no further proceedings shall be had concerning the subject before a judgment is produced, maintaining, cancelling, or otherwise settling the matter; and this registration, or cancellation, or adjustment of the said right, shall then be made by the Minister of Agriculture in accordance with such decision.
- 20. Clerical errors happening in the framing or copying of any instrument drawn in the office of the Minister of Agriculture shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Minister of Agriculture.
- 21. All copies or extracts certified from the office of the Minister of Agriculture shall be received in evidence without further proof, and without production of the originals.
- 22. Should a work copyrighted in Canada become out of print, a complaint may be lodged by any person with the Minister of Agriculture, who, on the fact being ascertained to his satisfaction, shall notify the copyright owner of the complaint and of the fact; and if, within a reasonable time, no remedy is applied by such owner, the Minister of Agriculture may grant a license to any person to publish a new edition or to import the work, specifying the number of copies and the royalty to be paid on each to the copyright owner.
- 23. The application for the registration of an interim copyright, of a temporary copyright, and of a copyright, may be made

made in the name of the author or of his legal representative by any person purporting to be the agent of the said author, and any fraudulent assumption of such authority shall be a misdemeanour, and shall be punished by fine and imprisonment accordingly; and any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable before any court of competent jurisdiction.

- 24. If any person shall wilfully make, or cause to be made, any false entry in the registry books of the Minister of Agriculture, or shall wilfully produce, or cause to be tendered, in evidence, any paper falsely purporting to be a copy of an entry in the said books, he shall be guilty of a misdemeanour, and shall be punished accordingly.
- 25. If a book be published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the unnamed author, or on behalf of such first publisher as the case may be.
- 26. It shall not be requisite to deliver any printed copy of the second or of any subsequent edition of any book or books, unless the same shall contain very important alterations or additions.
- 27. No action or prosecution for the recovery of any penalty under this Act shall be commenced more than two years after the cause of action arose.

The following fees shall be payable to the Minister of Agriculture before an application for any of the purposes hereinafter mentioned shall be entertained; that is to say,

,	\$	c.
On registering a copyright	1	00
On registering an interim copyright	0	50
On registering a temporary copyright	0	<b>50</b>
On recording an assignment		
On certified copy of registration	0	<b>50</b>
On registering any decision of a Court of Jus-		
tice, for every folio	0	<b>50</b>

On office copies of documents not above mentioned, the following charges shall be made:

	\$	c.
For every single or first folio certified copy.	0	50
For every subsequent one hundred word	ls	
(fractions from and under fifty being no	ot	
counted, and over fifty being counted for		
one hundred)	0	25

- (2.) The said fees shall be in full of all services performed under this Act by the Minister of Agriculture or by any person employed by him in pursuance of this Act.
- (3.) All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue fund of Canada. No fees shall be made the subject of exemption in favour of any person, and no fee exacted by this Act, once paid, shall be returned to the person who paid it.
- 28. "The Copyright Act of 1868," being the Act thirty-first Victoria, chapter fifty-four, and all other Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed, subject to the provisions of the next following section.
- 29. All copyrights heretofore acquired under the Acts, or parts of Acts repealed shall, in respect of the unexpired terms thereof, continue unimpaired and shall have the same force and effect as regards the province or provinces to which they now extend, and shall be assignable and renewable, and all penalties and forfeitures incurred and to be incurred under the same may be sued for and enforced, and all prosecutions commenced before the passing of this Act for any such penalties or forfeitures already incurred may be continued and completed as if such Acts were not repealed.
- 80. In citing this Act it shall be sufficient to call it "The Copyright Act of 1875."

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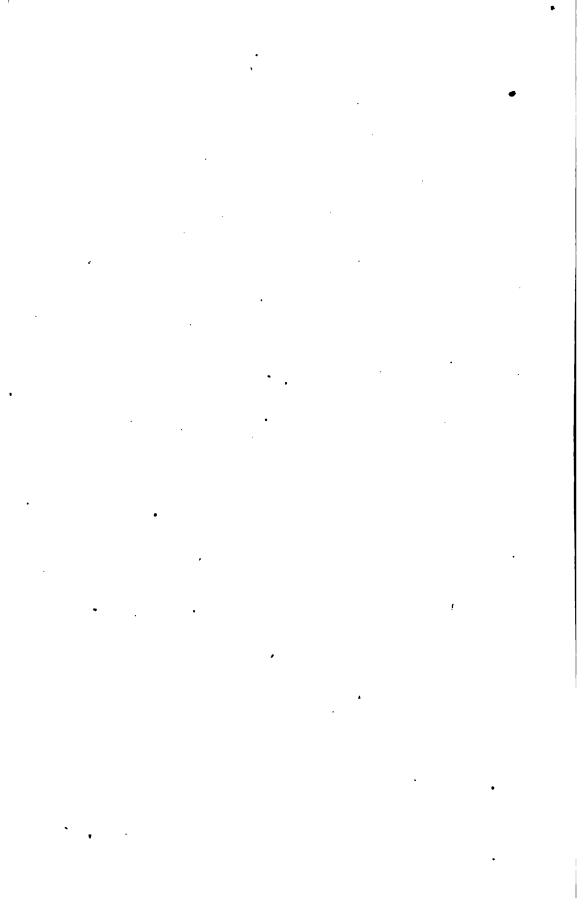
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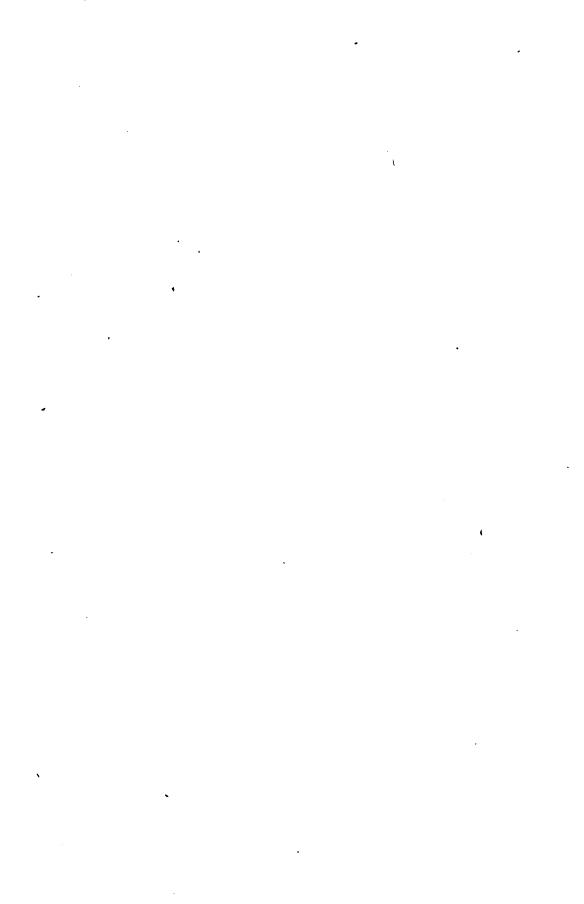
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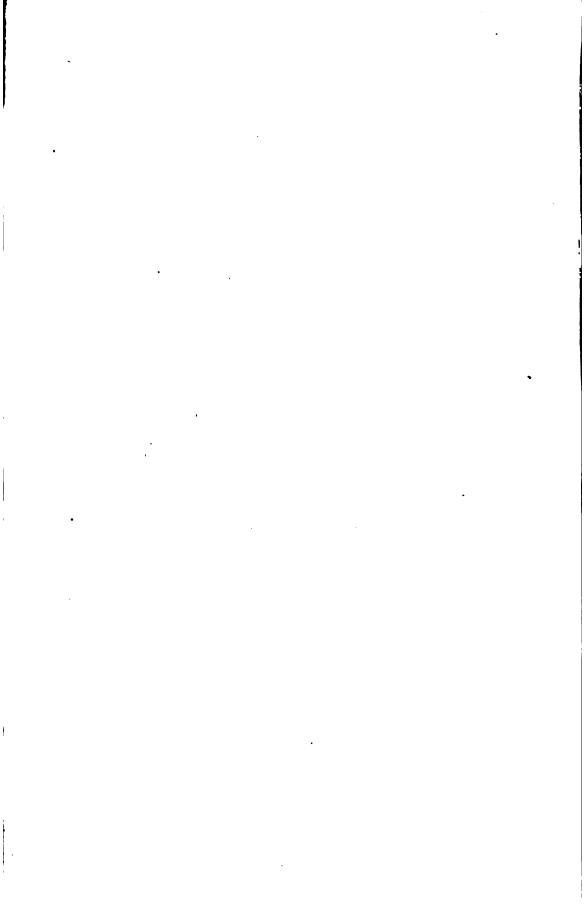
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